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TO AMEND THE MERCHANT MARINE ACT OF 1936, AS AMENDED

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HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON COMMERCE UNITED STATES SENATE

SEVENTY-SIXTH CONGRESS

FIRST SESSION

ON

S. 1516

BILL TO AMEND SECTIONS 704, 705, 706, AND 707 OF THE MERCHANT MARINE ACT OF 1936, AS AMENDED

FEBRUARY 24 AND 25, 1939

Printed for the use of the Committee on Commerce

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TO AMEND THE MERCHANT MARINE ACT OF 1936, AS AMENDED

FRIDAY, FEBRUARY 24, 1939

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
COMMERCE ON MERCHANT MARINE,
Washington, D. C.

The subcommittee met, pursuant to call, at 10:30 a. m., in Commerce Committee room, Senate Office Building, Senator John H. Overton, presiding.

Present: Senators Overton (chairman), Bailey, Guffey, Radcliffe, White, and Gibson.

Also present: Senator Barbour.

Senator OVERTON. The subcommittee will come to order. We have before us for consideration as members of the Subcommittee on Merchant Marine, a bill, S. 1516, introduced by Senator Barbour. At this point we shall have the bill incorporated in the record.

(S. 1516 is as follows:)

[S. 1516, 76th Cong., 1st sess.]

A BILL To amend sections 704, 705, 706, and 707 of the Merchant Marine Act of 1936, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 704 of the Merchant Marine Act, 1936, as amended (U. S. C., 1934 edition, Supp. IV, title 46, sec. 1194), is amended to read as follows:

"SEC. 704. All vessels transferred to or otherwise acquired by the Commission in any manner may be chartered or sold by the Commission pursuant to the further provisions of this Act. Pending such charter or sale the Commission, under such agreements as it may deem advantageous, is authorized to operate such vessels for its account on lines in foreign commerce of the United States. In the case of any line being operated by the Commission on February 1, 1939, preference in the operation, sale, or charter thereof shall be given to the agent operating such line for the account of the Commission on such date. Before advertising any such line for sale or charter, and notwithstanding any advertisement prior to February 1, 1939, for such sale or charter, the Commission shall negotiate with the agent who on such date was operating such line for the account of the Commission for sale or charter of such line to said agent, and may negotiate with any other person for sale or charter of such line to such person. The Commission, pursuant to such negotiation, may enter into an agreement or agreements for such sale or charter upon such terms and conditions as will give preference to the operator who was operating such line on February 1, 1939, insofar as it may be possible to do so consistent with the purposes and policy of this Act and with carrying into effect the requirements of said section 809 of this Act: *Provided,* That if any such line shall be disposed of by negotiation, a full report thereof with reasons therefor shall be made to Congress at the earliest opportunity. Except as in this section otherwise specifically provided, nothing contained herein

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shall be construed as limiting or affecting the power of sale under the provisions of section 705 of this Act."

SEC. 2. Section 705 of the Merchant Marine Act, 1936, as amended (U. S. C., 1934 edition, Supp. IV, title 46, sec. 1195), is amended to read as follows:

"SEC. 705. As soon as practicable after the passage of this Act, and continuing thereafter, the Commission shall arrange for the employment of its vessels in steamship lines on such trade routes, exclusively serving the foreign trade of the United States, as the Commission shall determine are necessary and essential for the development and maintenance of the commerce of the United States and the national defense: *Provided*, That such needs are not being adequately served by existing steamship lines privately owned and operated by citizens of the United States and documented under the laws of the United States. It shall be the policy of the Commission, except as otherwise provided in section 704 of this Act, as amended, to encourage private operation of each essential steamship line now owned by the United States by selling such lines to citizens of the United States in the manner provided in section 7 of the Merchant Marine Act, 1920, and in strict accordance with the provisions of section 5 of said Act, or by demising its vessels on bare-boat charter to citizens of the United States who shall agree to maintain such line or lines in the manner hereinafter provided."

SEC. 3. Section 706 of the Merchant Marine Act, 1936, as amended (U. S. C., 1934 edition, Supp IV, title 46, sec. 1196), is amended to read as follows:

"SEC. 706. (a) Except as otherwise provided in section 704 of this Act, as amended, the Commission shall not charter its vessels to private operators except upon competitive sealed bids submitted in strict compliance with all the terms and conditions of a public advertisement soliciting such bids. Each and every advertisement for bids to charter the Commission's vessels shall state the number, type, and tonnage of the vessels the Commission is offering for bare-boat charter for operation as a steamship line on a designated trade route, the minimum number of sailings that will be required, the length of time for which the charter will be given, and all other information the Commission shall deem necessary for the information of prospective bidders.

"(b) The Commission shall have authority to and shall announce in its advertisements for bids that the Commission reserves the right to reject any and all bids submitted."

SEC. 4. Section 707 of the Merchant Marine Act, 1936, as amended (U. S. C., 1934 edition, Supp. IV, title 46, sec. 1197), is amended to read as follows:

"SEC 707. Except as otherwise provided in section 704 of this Act, as amended—

"(a) The Commission shall award the charter to the bidder proposing to pay the highest monthly charter hire unless the Commission shall reject such bid for the reasons set forth in subsection (b) of this section.

"(b) The Commission may reject the highest or most advantageous or any other bid, if, in the Commissioner's discretion, the charter hire offered is deemed too low, or the Commission determines that the bidder lacks sufficient capital, credit, or experience to operate successfully the line; but the reason or reasons for rejection of any bid, upon request of the bidder, shall be stated to such bidder in writing.

"(c) If the highest bid is rejected, the Commission may award the charter to the next highest bidder, or may reject all bids and readvertise the line: *Provided, however*, That the Commission may operate the line until conditions appear to be more favorable for a reoffering of the line for private charter."

Senator OVERTON. A similar bill was introduced in the House and considered by the Committee on Merchant Marine and Fisheries. That committee held rather full hearings on the bill and submitted a report. In view of the fact that the full committee has requested us to consider this bill and to make a report thereon at the next regular meeting date of the committee, which is next Tuesday, and in view of the fact that the House held rather full hearings, I suggest that the report made by the Committee of the House on Merchant Marine and Fisheries be made a part of our record, if there is no objection.

(The report referred to is as follows:)

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76TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 71

PRIVATE CHARTER OPERATION

FEBRUARY 16, 1939.—Ordered to be printed

Mr. O'LEARY, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H. R. 2382]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H. R. 2382) to amend section 704 of the Merchant Marine Act of 1936 as amended and to amend section 706 (a) of the Merchant Marine Act of 1936, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

Amendment No. 1: Strike out all after the enacting clause and insert in lieu thereof the following:

"That section 704 of the Merchant Marine Act, 1936, as amended (U. S. C., 1934 edition, Supp. IV, title 46, sec. 1194), is amended to read as follows:

"SEC. 704. All vessels transferred to or otherwise acquired by the Commission in any manner may be chartered or sold by the Commission pursuant to the further provisions of this Act. Pending such charter or sale the Commission, under such agreements as it may deem advantageous, is authorized to operate such vessels for its account on lines in foreign commerce of the United States. In the case of any line being operated by the Commission on February 1, 1939, preference in the operation, sale, or charter thereof shall be given to the agent operating such line for the account of the Commission on such date. Before advertising any such line for sale or charter, and notwithstanding any advertisement prior to February 1, 1939, for such sale or charter, the Commission shall negotiate with the agent who on such date was operating such line for the account of the Commission for sale or charter of such line to said agent, and may negotiate with any other person for sale or charter of such line to such person. The Commission, pursuant to such negotiation, may enter into an agreement or agreements for such sale or charter upon such terms and conditions as will give preference to the operator who was operating such line on February 1, 1939, insofar as it may be possible to do so consistent with the purposes and policy of this Act and with carrying into effect the requirements of said section 809 of this Act: *Provided*, That if any such line shall be disposed of by negotiation, a full report thereof with reasons therefor shall be made to Congress at the earliest opportunity. Except as in this section otherwise specifically provided, nothing contained herein shall be construed as limiting or affecting the power of sale under the provisions of section 705 of this Act."

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SEC. 2. Section 705 of the Merchant Marine Act, 1936, as amended (U. S. C., 1934 edition, Supp. IV, title 46, sec. 1195), is amended to read as follows:

"SEC. 705. As soon as practicable after the passage of this Act, and continuing thereafter, the Commission shall arrange for the employment of its vessels in steamship lines on such trade routes, exclusively serving the foreign trade of the United States, as the Commission shall determine are necessary and essential for the development and maintenance of the commerce of the United States and the national defense: *Provided*, That such needs are not being adequately served by existing steamship lines privately owned and operated by citizens of the United States and documented under the laws of the United States. It shall be the policy of the Commission, except as otherwise provided in section 704 of this Act, as amended, to encourage private operation of each essential steamship line now owned by the United States by selling such lines to citizens of the United States in the manner provided in section 7 of the Merchant Marine Act, 1920, and in strict accordance with the provisions of section 5 of said Act, or by demising its vessels on bare-boat charter to citizens of the United States who shall agree to maintain such line or lines in the manner hereinafter provided."

SEC. 3. Section 706 of the Merchant Marine Act, 1936, as amended (U. S. C., 1934 edition, Supp. IV, title 46, sec. 1196), is amended to read as follows:

"SEC. 706. (a) Except as otherwise provided in section 704 of this Act, as amended, the Commission shall not charter its vessels to private operators except upon competitive sealed bids submitted in strict compliance with all the terms and conditions of a public advertisement soliciting such bids. Each and very advertisement for bids to charter the Commission's vessels shall state the number, type, and tonnage of the vessels the Commission is offering for bare-boat charter for operation as a steamship line on a designated trade route, the minimum number of sailings that will be required, the length of time for which the charter will be given, and all other information the Commission shall deem necessary for the information of prospective bidders.

"(b) The Commission shall have authority to, and shall announce in its advertisements for bids that the Commission reserves the right to reject any and all bids submitted."

SEC. 4. Section 707 of the Merchant Marine Act, 1936, as amended (U. S. C., 1934 edition, Supp. IV, title 46, sec. 1197), is amended to read as follows:

"SEC. 707. Except as otherwise provided in section 704 of this Act, as amended—

"(a) The Commission shall award the charter to the bidder proposing to pay the highest monthly charter hire unless the Commission shall reject such bid for the reasons set forth in subsection (b) of this section.

"(b) The Commission may reject the highest or most advantageous or any other bid, if, in the Commission's discretion, the charter hire offered is deemed too low, or the Commission determines that the bidder lacks sufficient capital, credit, or experience to operate successfully the line; but the reason or reasons for rejection of any bid, upon request of the bidder, shall be stated to such bidder in writing.

"(c) If the highest bid is rejected, the Commission may award the charter to the next highest bidder, or may reject all bids and readvertise the line: *Provided, however*, That the Commission may operate the line until conditions appear to be more favorable for a reoffering of the line for private charter."

Amendment No. 2: Amend the title to read as follows: "A bill to amend sections 704, 705, 706, and 707 of the Merchant Marine Act, 1936, as amended."

EXPLANATION OF AMENDMENTS

Section 704 is amended to delete a provision thereof requiring the discontinuance of operation of lines by the Commission under certain operating agreements, because this requirement has been fully carried out by such discontinuance. The section, as amended, authorizes the Commission, pending sale or charter of its lines, to operate them for its own account. In case of a line operated by the Commission on February 1, 1939, preference in the operation, sale, or charter thereof shall be accorded the agent of the Commission operating the line on such date. The Commission, prior to advertising any such line for sale or charter, shall negotiate with the agent of the Com-

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mission operating such line on February 1, 1939, and may negotiate with other persons, for the sale or charter of the line. The Commission, after such negotiation, may enter into an agreement for sale or charter upon such terms and conditions as will give preference to the agent operating the line on February 1, 1939, insofar as it may be possible to do so consistently with the purposes and policy of the Merchant Marine Act, 1936, including section 809 thereof. In case such negotiation does not result in an agreement satisfactory to the Commission, the Commission may call for bids for the sale or charter of such lines in accordance with the provisions of the Merchant Marine Act, 1936.

If any sale or charter is negotiated, the Commission is required to make a full report thereof, with reasons therefor, to Congress at the earliest opportunity.

A clarifying amendment is inserted in the proviso referring to section 705 in order to make section 704, as amended, and section 705 conform.

Section 705 is amended by the insertion of the words "except as otherwise provided in section 704 of this act, as amended" in the last sentence of the section. The purpose is to make these several sections conform.

Section 706 is amended by inserting in subsection (a) the words "except as otherwise provided in section 704 of this Act, as amended". This explanation is the same as above and the amendment is made for the purpose of harmonizing the sections affected by the amendment to section 704.

Section 707 is amended by the insertion of the words "except as otherwise provided in section 704 of this Act, as amended" so as to make that section apply to subsection (a), (b), and (c). The same explanation obtains for this amendment.

Amendment No. 2: The bill as originally referred to your committee amended only sections 704 and 706 (a). The amendments proposed above, however, effect changes in sections 704, 705, 706, and 707 and the title has been amended to show changes in all of these sections.

PURPOSE

The purpose of this bill is to provide more effective means of disposing of Government-owned lines in the best interests of the United States; to give full force, vitality, and effect to the provision of existing law whereby it is provided that in disposing of Government-owned lines under this act, preference shall be given to persons who are citizens of the United States and who have the support, financial and otherwise, of the domestic communities primarily interested; to give full force, vitality, and effect to the provisions of existing law whereby it is required that Government-owned vessels which, at the time of the enactment of the Merchant Marine Act, 1936, were being operated by private operators on lines in foreign commerce of the United States, should be chartered or sold, but that preference should be given to the operators then operating said vessels, and to require contracts under said act to be entered into so as to serve equitably, insofar as possible, the foreign-trade requirements of the Atlantic, Gulf, and Pacific ports of the United States.

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The sections providing for the preference asserted are (a) section 704 where it is provided that in making charter of vessels then being operated by private operators on lines in the foreign commerce of the United States "preference is to be given to present operators," and (b) section 809 which reads as follows:

SEC. 809. Contracts under this Act shall be entered into so as to equitably serve, insofar as possible, the foreign trade requirements of the Atlantic, Gulf, and Pacific ports of the United States. In awarding contracts under this Act, preference shall be given to persons who are citizens of the United States and who have the support, financial and otherwise, of the domestic communities primarily interested.

The lines that are affected by this legislation are Government-owned lines and are as follows:

1. The America France Line;
2. The Oriole Lines;
3. The American Hampton Roads-Yankee Line;
4. The American Pioneer Line.

The number of ships involved in these lines are about 28, and are all around 20 years in age.

Recently the United States Maritime Commission has invited bids for the purchase of the trade name and goodwill of the America France Line, the Oriole Lines, and the American Hampton Roads-Yankee Line, together with the steel cargo vessels named in the invitation and now operated on said lines. Since the hearing upon this bill the Commission has authorized the advertisement of the American Pioneer Line. Said bids are (a) for purchase of the trade name and goodwill of said lines, respectively, with the vessels operated on said lines, for operation on routes therein specified, or (b) for charter on bare-boat basis, of the same vessels and lines for operation on the same schedules as in (a).

The invitation in connection with the America France Line covers 4 vessels for operation from United States North Atlantic ports, north of Cape Hatteras, to French Atlantic and French channel ports on the following sailing schedules: Not less than 24 outward sailings per year on a fortnightly schedule from Philadelphia, Baltimore, Hampton Roads, and New York to Havre, of which not less than 1 sailing per month shall include calls at the ports of Boston, Dunkirk, Bordeaux, and St. Nazaire.

The invitation in connection with the Oriole Lines covers 4 vessels for operation from United States Atlantic ports north of Cape Hatteras to west coast of United Kingdom and Irish ports on not less than 24 outward sailings per year on a fortnightly schedule from the ports of Philadelphia, Baltimore, Hampton Roads, and New York to the ports of Manchester, Liverpool, Dublin, Belfast, and Glasgow, and the port of Cork, when cargo offerings warrant.

The invitation in connection with the American Hampton Roads-Yankee Line covers 8 vessels for operation from United States ports north of Cape Hatteras to ports on the east coast of the United Kingdom, and Hamburg-Bremen (except from the port of New York to the ports of London and Hamburg-Bremen) on the following ling schedules: Not less than 52 outward sailings per year from s ports of Philadelphia, Baltimore, and Hampton Roads to the ts of London and Hamburg, which schedules shall include fort- ıtly calls at the ports of Boston, Bremen, Hull, and Dundee, and

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a regular monthly call at the port of Leith, the operator to have the privilege of calling at New York (except between New York, Hamburg-Bremen, and London), Portland, Maine, and Avonmouth and Southampton as cargo offerings warrant.

Alternative bids are called for in various combinations, combining (a) all of said lines, (b) America France and the Oriole Lines, (c) America France and American Hampton Roads-Yankee Line, and (d) Oriole and American Hampton Roads-Yankee Lines.

The invitation calls for suggestions for the acquisition of any or all of the aforesaid vessels for operation on any combination of all or any part of the services, routes, or lines for consideration in connection with future proposals in the event an award is not made under any of the terms and conditions outlined in the proposal. In this respect the invitation is really an invitation to negotiate and to submit bases of conference and negotiation, but omits such elements of certainty as affords bidders the opportunity to make stable bids.

The invitation contains various provisions for substitution of new ships in the process of construction or hereafter to be constructed for the United States Maritime Commission upon terms hereafter to be affixed or by the Commission deemed equitable, with penalty of forfeiture if the purchaser or charterer should not submit to such terms as the Commission may deem equitable but which to the operator may appear and, in fact, may be onerous.

The bid, pursuant to the invitation, must be accompanied by a guaranty in the sum of $50,000 with additional provision for surety bonds.

The invitation is in such form that the interests of the United States may not be protected, the preferences created in existing la v to present operators may be invalidated, and the equitable distribution among ports may be endangered (a) by a "fly-by-night" or speculative operator, or (b) by the creation of a monopoly serving diverse ports but primarily interested in the development of only some of the ports served. The invitation might be considered as designed to elicit suggestions which might be used as the basis for subsequent invitations or negotiations, but the Maritime Commission considers that private negotiations are not authorized by the present law.

There is appended the letter of the Chairman of the Commission, dated January 31, 1939, transmitting to your committee the opinion of the General Counsel that negotiations are illegal under the law. The opinion is as follows:

> The provisions of the Merchant Marine Act, 1936, as amended, affords no basis whatsoever for the interpretation suggested by the Cosmopolitan Shipping Co., Inc., but, on the contrary, the act expressly provides that the commission shall not charter its vessels to private operators except upon competitive sealed bids submitted in strict compliance with all the terms and conditions of a public advertisement soliciting such bids, and, in addition, specifies certain detail information shall be included in the advertisement.

If this is a correct interpretation and as a result other provisions of the law cannot be carried into effect for lack of power to negotiate, then the proposed bill will supply that hiatus which exists in the law.

The granting of additional preferences, is not involved here, but the bill perfects the machinery by which already existing preferences, repeatedly declared in the laws of Congress enacted in the past 15 years, may be carried into effect if in the best interest of the Uni States.

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For reasons which satisfied the Congress, the law already provides expressly for preferences and equitable distribution of services among ports. The commission's agents have valuable trade connections, goodwill, and affiliations built up through years of experience which should not be lost to the various ports which the law expressly provides shall be taken care of by the execution of contracts under this act; i. e., the Merchant Marine Act, 1936, so as to serve equitably, insofar as possible, the foreign trade requirements of the Atlantic, Gulf, and Pacific ports of the United States. The proposed legislation, therefore, provides a means of doing that which the commission is of the opinion that existing provisions of law will not permit to be done.

The trade areas served by these lines are of such importance that service by American-flag ships should be continued. Your committee is trying to provide, by this legislation, machinery whereby this may be done, and to protect against possible future strangulation of these most important areas by interests primarily interested in other localities. It is for this reason that this preference and the provisions of section 809 have been affirmed and reaffirmed by Congress many times.

Your committee desires to assure, so far as possible, that the important trade areas referred to shall be adequately served by American-flag ships and not be forced to resort to foreign-flag lines for the development of their ports.

The Commission advises:

> There is considerable doubt, however, whether those portions of the Government lines which parallel services of privately owned subsidized lines should be continued in their present form and under separate management with an attendant duplication of overhead and other operating expense.

This declaration emphasizes the need for negotiation in a settlement of these problems. Surely a commission that has settled by negotiation for the comparatively small sum of $6,945,873.33 claims asserted against the Government aggregating $109,029,294.17 growing out of the cancelation of ocean-mail contracts, can adjust the much more limited problems involved in the negotiations authorized by this act, and especially since the proposed legislation authorizes negotiations and bids. The competitive bidding method will be open to the Commission in the event it is unable to negotiate satisfactory contracts.

The policy declared in the Merchant Marine Act, 1936, that the merchant marine of the United States shall be privately owned and operated insofar as practicable rather than owned and operated by the Government, will be effected more nearly by the methods permitted by this bill than by sole dependence upon competitive bidding. It is difficult to see why private negotiations should be against public policy in the case of the particular lines affected by this legislation when it was not against public policy in the adjustment of operations under the ocean-mail contracts. Under the Merchant Marine Act, 1936, the Commission is authorized to negotiate for the leasing of terminal properties under its control. The committee is advised that the transaction whereby the Commission acquired approximately 90 percent of the stock of the American President Lines, Ltd., was negotiated. In the case of the lines involved in this controversy, the Government owns the ships but not the operators. In the case of the American President Lines the Maritime Commission owns approximately 90 percent of the stock in the operating company and through

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a mortgage owns a large equity in the ships. It is difficult to understand why the result obtained by private negotiation in the case of the American President Lines may be considered as in the interest of public policy and permitted under existing law while similar procedure in the case of the Government-owned lines covered by the invitation to bid will be considered as against public policy.

The proposed bill raises no fundamental question as to the changing of the principle and policy of the Government in respect to the disposition of public property by competitive bidding in favor of the present agents of the Government who are now operating the lines. There is nothing in the proposed bill that gives the operators any advantage or preference that does not exist under the present law, and in fact, has existed for many years. There is nothing that compels the Commission to accept terms by negotiation that are not in the interest of the Government, and your committee believes that the same Commission which has rendered valuable service in protecting the Government's interests in the matters outlined above involving many millions of dollars may render as eminent service in solving these problems.

Furthermore, your committee submits that a cursory comparison between a typical invitation for competitive bids for the disposition of public property of a general character on the one hand, and the invitation for competitive bids for the disposition of a particular going steamship line on the other hand, will disclose a very wide and material difference between the two which makes it undesirable to dispose of them in the same manner. Such an approach disregards the real purpose of the Merchant Marine Act which is to develop a United States merchant marine worthy of our flag in order to provide adequately for national defense and to protect and promote our trade. To achieve this purpose, and to provide adequate service to Atlantic, Gulf, and Pacific ports, there are many important factors requiring consideration. These involve the principle of protection and equitable consideration to which the out ports and the trade moving through them are fairly entitled. Such a principle promotes the national-defense objective which requires the normal development of all important ports if they are to be qualified and equipped to meet the abnormal requirements occasioned by war.

It is submitted that disposition of Government-owned steamship lines through the method of negotiation instead of entirely by competitive bidding is not a novel procedure or a departure from past principles or policies.

It is difficult to understand how the prospective availability and probable substitution of finer, faster, and newly constructed vessels to be completed by the Commission sometime during the next 12 months should render negotiations undesirable or against public policy. The reverse would appear to be true. The vessels now being offered are not the vessels intended to be used ultimately. They are old and have lived out their useful and economic lives. Those vessels are subject to substitution by other vessels, not now in being, upon terms unknown to the persons invited to bid, but which evidently are left to determination by later legislation and negotiation between the Commission and the charterer or purchaser. Such a complicated condition adds nothing to the prospect of receiving satisfactory bids for the present vessels, and since it necessarily contemplates subse-

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have made offers in good faith establishes the present operators as likely and potential means for transferring the lines ultimately to private operation.

However, the primary consideration is the adequate service to the ports from and to which they operate. These lines are entitled to be considered as effective means of serving those ports. The bill as amended gives the Commission flexibility of action and discretion. Your committee believes that it is the best method of protecting and promoting the interests of the United States and the various ports affected.

Your committee urges that the bill as amended do pass.

There are appended as a part of this report (1) letter dated January 31, 1939, from the Chairman of the United States Maritime Commission, with memorandum of January 18, 1939, from the General Counsel of the Commission to the Director of Operations and Traffic; (2) the letter dated January 31, 1939, from Thomas M. Woodward, Vice Chairman of the United States Maritime Commission to the chairman of your committee; and (3) copy of the invitation on which bids have been called to be opened February 20, 1939.

UNITED STATES MARITIME COMMISSION,
Washington, January 31, 1939.

Hon. S. O. BLAND,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives.

MY DEAR MR. CHAIRMAN: In view of your interest in the disposition of Government-owned steamship lines under title VII of the Merchant Marine Act, 1936, as amended, there is enclosed herewith for your information a copy of the General Counsel's memorandum of January 18, 1939, commenting upon a contention by the vice president of the Cosmopolitan Shipping Co., Inc., that under section 704 of the act "the Commission can, if they desire, negotiate privately with us for a reasonable and satisfactory charter, without again submitting the line for public bidding."

The General Counsel points out that the provisions of the act afford no basis whatever for the interpretation suggested, but, on the contrary, expressly provide that the Commission shall not charter its vessels to private operators except upon competitive sealed bids submitted in strict compliance with all the terms and conditions of the public advertisements soliciting such bids, and specify that certain detailed information should be included in the advertisement.

Sincerely yours,

E. S. LAND, *Chairman.*

JANUARY 18, 1939.

DIRECTOR OF OPERATIONS AND TRAFFIC,
General Counsel, America France Line,
Charter to Cosmopolitan Shipping Co., Inc.:

You have referred to this office copy of a letter from the vice president of the Cosmopolitan Shipping Co., Inc., managing agent of the America France Line, in which reference is made to the announced intention of the Commission to call for bids for charter of the America France Line and stating that, when charter bids were previously requested for this line, the Cosmopolitan Shipping Co., Inc., submitted the only bid, and, under those circumstances, it is his interpretation of the Merchant Marine Act, 1936, especially section 704, "that the Commission can, if they desire, negotiate privately with us for a reasonable and satisfactory charter, without again submitting the line for public bidding." The letter concludes with the statement that such a course would carry out the intent and purpose of the act and would serve to continue the management of the lines in the hands of an experienced operator who has been for many years en[illegible] this trade, and requests to be advised whether the Commission is prep[illegible] negotiate with it for such a charter.

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Merchant Marine Act, 1936.

Section 704 of the act as amended directed the Maritime Commission to discontinue the operation of its vessels upon the completion of all voyages commenced on or before June 29, 1937, under such managing agreements as existed at the time of the passage of the act. Therefore on May 15, 1937, the Commission advertised for competitive sealed bids for the charter of its lines in accordance with the Merchant Marine Act, 1936. The bids received in response

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to this invitation were rejected by the Commission under the provisions of section 707 (b) for the reasons, among others, that the bids were not responsive to the invitation or that the bidder lacked the sufficient capital, credit, or experience to operate successfully the line bid on. Thereafter, in accordance with the authority contained in section 707 (c) to the effect that if all bids were rejected the Commission might operate the lines until conditions appeared to be more favorable for a reoffering for private charter, the Commission entered into temporary operating agreements with its agents for the continued operation of the lines, which agreements have been extended from time to time until March 31, 1939.

Inasmuch as the Commission has made contracts for the construction of a number of 15½-knot cargo vessels which will be completed within the next 12 months and which have been allocated to the trans-Atlantic service, it is believed that conditions are now more favorable for reoffering of the lines for sale or for charter with the right of substitution if chartered of existing or newly constructed tonnage by the Government or the charterer. Therefore, the Commission on January 16, 1939, issued invitations for bids, returnable February 20, 1939, for the purchase or charter of three of the Government-owned lines—the America France Line, the Oriole Lines, and the American Hampton Roads-Yankee Line.

The apparent purpose of these proposed amendments is to give preference, in the disposition of Government-owned lines under section 704, to the citizens who have been employed as agents of the Government to operate these lines, in addition to the preferences now enjoyed under existing law, over other qualified citizens who may be interested in bidding for the charter of such lines.

As stated previously, the proposed amendments raise a fundamental question as to the changing of the principle and policy of the Government in respect to the disposition of public property by competitive bidding, in favor of the present agents of the Government who are now operating the lines. The present operators are and have been employed by the Commission solely as its agents to operate the lines for the account of and at the expense of the Commission. They have no financial interest in the lines and have no substantial capital invested in the operation of the lines. Their salaries, and other expenses incurred in the operation of the lines, are paid by the Commission. There would, therefore, appear to be no reason why these agents should be given a preferred status over other citizens who have sufficient capital, credit, and experience in operating steamship lines and who may be interested in bidding for the lines. Other qualified citizens may not only be operating privately owned tonnage to or in the general direction of the ports served by the Commission's lines but in some cases may be maintaining regular service between the same ports. There would appear to be no reason why other citizens should be discouraged from bidding by the granting of special preferences to the present operators.

The trade areas served by these lines are of such importance that service by American-flag ships should be continued. There is considerable doubt, however, whether those portions of the Government lines which parallel services of privately owned subsidized lines should be continued in their present form and under separate management with an attendant duplication of overhead and other operating expense.

For the reasons outlined above, the Commission is opposed to the passage of the bill H. R. 2382.

In view of your request that the Commission's report on this bill be submitted, if possible, not later than January 31, 1939, it has been impossible to submit the report to the Bureau of the Budget for the purpose of ascertaining whether or not it is in accord with the program of the President. Consequently, nothing contained herein should be construed as an indication that the proposed legislation would or would not be considered to be in accord with such program.

Sincerely yours,

THOMAS M. WOODWARD,
Vice Chairman.

INVITATION FOR BIDS

UNITED STATES OF AMERICA REPRESENTED BY UNITED STATES MARITIME COMMISSION

JANUARY 16, 1939.

Hereby invites sealed bids from American citizens for the purchase of the t name and goodwill of the America France Line, the Oriole Lines, and the Ai Hampton Roads-Yankee Line, together with the steel cargo vessels here...

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[illegible] operated on said lines, respectively, for operation on the services, [illegible] hereinafter described, and/or for the charter (bare-boat basis) of [illegible] vessels for said operation.

Such [illegible] be submitted for:

The purchase of the trade name and goodwill of the America France [illegible] the vessels:

Names of vessels:	Deadweight tonnage
[illegible]	8, 015
[illegible] Hall	8, 000
[illegible] County	8, 000
[illegible]	8, 000

[illegible] operation from United States Atlantic ports north of Cape Hatteras to French [illegible] and French channel ports on the following sailing schedules: Not less [illegible] outward sailings per year on a fortnightly schedule from Philadelphia, [illegible], Hampton Roads, and New York to Havre, of which not less than 1 [illegible] per month shall include calls at the ports of Boston, Dunkirk, Bordeaux, [illegible] Nazaire; or

(b) The charter (bare-boat basis) of the vessels named in the preceding paragraph designated 1 (a) for operation from and to the ports and on the schedules described in said paragraph 1 (a); or

2. (a) The purchase of the trade name and goodwill of the Oriole Lines and the vessels:

Names of vessels:	Deadweight tonnage
Artigas	8, 000
Capulin	8, 000
Cold Harbor	8, 015
Quaker City	8, 015

for operation from United States Atlantic ports north of Cape Hatteras to west coast of United Kingdom and Irish ports on the following sailing schedules: Not less than 24 outward sailings per year on a fortnightly schedule from the ports of Philadelphia, Baltimore, Hampton Roads, and New York to the ports of Manchester, Liverpool, Dublin, Belfast, and Glasgow, and the port of Cork when cargo offerings warrant; or

(b) The charter (bare-boat basis) of the vessels named in the preceding paragraph designated 2 (a) for operation from and to the ports and on the schedules described in said paragraph 2 (a); or

3. (a) The purchase of the trade name and goodwill of the American Hampton Roads Yankee Line and the vessels:

Names of vessels:	Deadweight tonnage
Capillo	8, 000
City of Flint	8, 015
Lehigh	8, 000
Liberty	9, 748
McKeesport	9, 808
Sarcoxie	8, 000
Satartia	8, 000
Vincent	9, 808

for operation from United States Atlantic ports north of Cape Hatteras to ports on the east coast of United Kingdom, and Hamburg-Bremen (except from the port of New York to the ports of London and Hamburg-Bremen) on the following sailing schedules: Not less than 52 outward sailings per year from the ports of Philadelphia, Baltimore, and Hampton Roads to the ports of London and Hamburg, which schedules shall include fortnightly calls at the ports of Boston, Bremen, Hull, and Dundee, and a regular monthly call at the port of Leith. The operator shall have the privilege of calling at New York (except between New York, Hamburg-Bremen, and London), Portland, Maine, Avonmouth, and Southampton as cargo offerings warrant; or

(b) The charter (bare-boat basis) of the vessels named in the preceding paragraph designated 3 (a) for operation from and to the ports and on the schedules described in said paragraph 3 (a); or

4. (a) The purchase of the trade name and goodwill of the America France Line, Oriole Lines, and American Hampton Roads-Yankee Line and the vessels described in the preceding paragraphs designated 1 (a), 2 (a), and 3 (a), respectively, for operation from and to the ports and on the schedules therein set forth; or

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(*b*) The charter (bare-boat basis) of the vessels named in the preceding paragraphs designated 1 (*a*), 2 (*a*), and 3 (*a*), respectively, for operation under the trade names, from and to the ports, and on the schedules therein named and described; or

5. (*a*) The purchase of the trade name and goodwill of the America France Line and the trade name and goodwill of the Oriole Lines and the vessels described in said paragraph designated 1 (*a*) and 2 (*a*), respectively, for operation from and to the ports and on the schedules described in said paragraphs 1 (*a*) and 2 (*a*), respectively; or

(*b*) The charter (bare-boat basis) of the vessels named in the preceding paragraphs designated 1 (*a*) and 2 (*a*), respectively, for operation under the trade names, from and to the ports, and on the schedules therein named and described; or

6. (*a*) The purchase of the trade name and goodwill of the America France Line and the trade name and goodwill of the American Hampton Roads-Yankee Line and the vessels named in the preceeding paragraphs 1 (*a*) and 3 (*a*), respectively, for operation from and to the ports and on the schedules described in said paragraphs 1 (*a*) and 3 (*a*), respectively; or

(*b*) The charter (bare-boat basis) of the vessels named in the preceding paragraphs designated 1 (*a*) and 3 (*a*), respectively, for operation under the trade names, from and to the ports, and on the schedules therein named and described; or

7. (*a*) The purchase of the trade name and goodwill of the Oriole Lines and the trade name and goodwill of the American Hampton Roads-Yankee Line and the vessels named in the preceding paragraphs designated 2 (*a*) and 3 (*a*), respectively, for operation from and to the ports and on the schedules described in said paragraphs 2 (*a*) and 3 (*a*), respectively; or

(*b*) The charter (bare-boat basis) of the vessels named in the preceding paragraphs designated 2 (*a*) and 3 (*a*), respectively, for operation under the trade names, from and to the ports, and on the schedules therein named and described.

The United States Maritime Commission invites suggestions for the acquisition of any or all of the aforesaid vessels for operation on any combination of all or any part of the services, routes, or lines described in the preceding paragraphs designated 1 (*a*), 2 (*a*), and 3 (*a*), respectively, for consideration in connection with future proposals in the event an award is not made under any of the terms and conditions outlined in this proposal.

INFORMATION AND INSTRUCTIONS TO BIDDERS

For the purpose of convenience, the United States Maritime Commission is sometimes hereinafter called the "Commission" and the successful bidder for purchase or charter of any of the vessels is sometimes hereinafter called the "operator."

1. *Vessels and services, routes, or lines.*—The Commission will not consider bids for a less number of vessels for operation on any one service, route, or line, or a combination of any service, route, or line above described, than herein allocated to such service, route, or line, unless the operator agrees to substitute other vessels as hereinafter provided. Neither will the Commission consider a bid for the operation of the vessels covered by this invitation or any substitutions to be made therefor, except on the services, routes, or lines herein described.

2. *Financial results of lines.*—The financial results of operation of each of the lines described in the preceding paragraphs 1 (*a*), 2 (*a*), and 3 (*a*), respectively, for the fiscal year ending June 30, 1938, and for the period commencing July 1, 1938, and ending October 31, 1938, may be obtained upon application to the undersigned office or to the district representatives of the Commission located, respectively, at 45 Broadway, New York, N. Y.; Canal Bank Building, New Orleans, La.; United States Maritime Commission Terminal, Norfolk, Va.; and 200 Bush Street, San Francisco, Calif. Bidders are cautioned that this data is furnished solely for their general information and its accuracy is not warranted.

3. *Substitution of vessels.*—

(*a*) By the operator: In the event of charter, the operator may substitute other cargo vessels owned by the operator for all or any of the vessels awarded or chartered, with the prior written approval of the Commission and subject to such terms and conditions as may be imposed or approved by the Commission in connection with the substitution (including any change in charter hire deemed by the Commission to be equitable). As indicated in the annexed forms of bids, a bidder may omit from its bid for purchase or charter all or any of the vessels allocated to the service, route, or line bid on. In the event of such omission,

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bidder must provide a cargo service on such service, route, or line with its own vessels satisfactory to the Commission, and a bid for less than all of the vessels will be considered only if the bidder establishes, to the satisfaction of the Commission, its ability to provide such satisfactory cargo service.

(*b*) By the Commission: The Commission may substitute for any of the vessels awarded or chartered, or vessels owned by the operator substituted therefor, presently existing or newly constructed cargo vessels satisfactory to the operator, and upon such substitution all the provisions of the charter party agreement (including provisions with respect to the payment of an operating-differential subsidy) shall be applicable thereto, subject to the provisions of law then in effect; provided, however, that such adjustments of the basic charter hire may then be made (1) as may be necessary to conform to the provisions of law then in effect, and (2) as the Commission may deem fair and equitable. In the event of the failure of the operator to agree to pay such charter hire for any vessel so substituted by the Commission, the charter party agreement shall terminate forthwith and the operator shall forfeit all rights thereunder and also pay to the Commission as liquidated damages a sum equal to 12½ percent of the aggregate amount of any operating-differential subsidy paid thereunder.

4. *Operating-differential subsidy agreement.*—

(*a*) Term and form of agreement: As indicated in the attached forms of bids, each bid may incorporate an application for an operating-differential subsidy. A subsidy for operation of each service, route, or line herein described will be granted by the Commission to the operator upon application for such a subsidy. In the event of charter, the subsidy agreement shall extend for the period of the charter. In the event of purchase, the subsidy agreement shall be for a period of 3 years unless sooner terminated as therein provided. The subsidy agreement shall be in substantially the latest form heretofore approved by the Commission for agreements with owners and operators of subsidized vessels, with such additions and modifications as may be deemed necessary or advisable.

(*b*) Items to be subsidized and percentage of subsidy: The items and percentages of differential to be incorporated in the operating-differential subsidy agreement have been determined by the Commission to be as follows:

[NOTE.—Line A represents America France Line; line B, Oriole Lines; and line C, American Hampton Roads Yankee Line.]

Items	Percentage of differential		
	Line A	Line B	Line C
Wages of officers and crew	(NOTE.—The percentage of differential for each line will be furnished on or before Jan. 24, 1939, by an addendum to this invitation.)		
Subsistence of officers and crew			
Maintenance (meaning expendable equipment and maintenance thereof, stores and supplies, but not fuel oil and lubricants)			
Repairs not compensated by insurance			
Cost of deductible average claim repairs			
Protection and indemnity insurance (including premiums and claim payments under deductible average provisions of policies)			

5. *Forms of bids.*—Bids must be submitted in triplicate. Each bid for the purchase of the vessels must be substantially in the form designated Form A, annexed to this invitation, and each bid for the charter of the vessels must be substantially in the form designated Form B, annexed to this invitation. Special care should be exercised in the preparation of bids. Erasures or other changes in the bid must be explained or noted over the signature of the bidder. Each bid must be complete and must be duly executed in the name of the bidder by its proper officers or other persons authorized to execute and deliver the bid. When requested by the Commission, satisfactory evidence of the authority of the officer signing on behalf of the bidder shall be furnished promptly. The Commission will not receive, either directly or indirectly, from bidders or from any persons acting for them, any communication, plan, or explanation, either oral or in writing, tending to explain or modify their bids in any way whatever unless such communication, plan, or explanation is called for by the Commission.

6. *Guaranty.*—No bid will be considered unless it is accompanied by a guaranty in the sum of $50,000 to insure compliance with the terms of the bid, and t execution of contracts and surety bonds required thereunder. In the event successful bidder fails to execute such contracts and furnish such surety

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bonds within the time specified, it shall pay to the Commission as liquidated damages and not as a penalty the sum of $50,000. The bidder, at its option, may furnish a guaranty bond with surety or sureties satisfactory to the Commission or a certified check, or may deposit, in accordance with Treasury Department regulations as security, United States bonds of principal amount equal to said penal sum. In the case of security in the form of a certified check or United States bonds, the Commission may make such disposition of the same as will accomplish the purpose for which submitted. Certified checks may be held uncollected at the bidder's risk. The certified checks or the amounts thereof and United States bonds of unsuccessful bidders will be returned as soon as praticable after the opening.

7. *Withdrawal of bids.*—A bid may be withdrawn on written or telegraphic request from bidders prior to the time fixed for opening but not thereafter. Negligence on the part of the bidder in preparing the bid confers no right for the withdrawal of the bid after it has been opened.

8. *Bids received prior to time for opening.*—Bids received prior to the time of opening will be securely kept, and unopened if identified as herein required. The secretary of the Commission, the officer who will open them, will decide when the specified time has arrived, and no bid received thereafter will be considered, except that, when a bid arrives by mail after the time fixed for opening but before award is made, and it is shown to the satisfaction of the Chairman of the Commission that the nonarrival on time was due solely to delay in the mails for which the bidder was not responsible, such bid will be received and considered. No responsibility will attach to any officer or representative of the Commission for the premature opening of a bid not properly addressed and identified.

9. *General qualifications.*—Each bidder shall submit with its bid such information as it may deem material on the question of sufficiency of its capital, credit, and experience, to comply with the requirements of this invitation and to insure successful operation of the line. Each bidder shall, upon request, assist the Commission in verifying any information furnished by the bidder and shall also furnish such additional information with respect to its qualifications as the Commission may deem pertinent.

10. *Time for opening; identification of bids.*—Each bid shall be enclosed in a sealed envelope and marked "Bid for purchase of" or "Bid for charter of" (name line or lines bid on), and this envelope enclosed in another and addressed to secretary, United States Maritime Commission, Room 4852, United States Department of Commerce Building, Washington, D. C., and must be received before 12 o'clock noon, eastern standard time, February 20, 1939, at which time the bids will be publicly opened and read.

11. *Award and rejection of bids.*—The United States Maritime Commission reserves the right to reject any and all bids in whole or in part, call for new bids, waive any irregularity in any bid and make such award as it may deem is most advantageous or will best serve the purposes and policy of the Merchant Marine Act, 1936, as amended.

12. *Terms of charter party.*—

(*a*) Period of charter: The effective date of the charter party shall be on or about April 1, 1939. The period of the charter party will be 3 years from the effective date. The vessels will be delivered at the port of New York upon completion of voyages commenced prior to March 31, 1939, or at such other place and time as may mutually be agreed upon.

(*b*) Management: Each bidder shall furnish such information as the Commission may require with respect to its management, and the operator shall agree that during the term of the charter (1) all officers, executive personnel, masters, and engineers shall at all times be satisfactory to the Commission; and (2) the Commission shall have the privilege of designating one director or of having a representative present at all directors' meetings.

(*c*) Form of charter party agreement: A form of charter party agreement will be furnished upon written request to interested and qualified prospective bidders. Copies of changes in such form of agreement made by the Commission on or before February 15, 1939, will be furnished to persons who have so received, upon written request as aforesaid, a copy of said form of charter party agreement. Each bid for charter of the vessels shall be upon the terms and conditions set forth in such form of agreement as so amended. The Commission reserves the right to make further additions, changes, or amplifications in the form of agreement not in conflict with material provisions thereof as it may deem necessary more fully to effectuate the purposes of said agreement or to protect the interest of the United States. The charter party agreement shall be in the form and contain the provisions required by the act. Attention is directed par-

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... requirements for payment under certain circumstances of addi... which are required to be included in the charter party agree... section 709 of the act. The charter party agreement and the perform... specified therein shall be executed and delivered by the operator to ... Commission within 10 days after forms of such instruments have been sub... by the Commission to the operator.

... The operator shall, in the event the vessels are chartered, be ... to carry hull and disbursement insurance in the amount of $175,000 on ... vessel, and P. & I. insurance in the amount of approximately $100 per gross ... per vessel, on forms of policies and with underwriters or in underwriting ... satisfactory to the Commission. In the event the vessels are purchased, ... operator will be required to carry hull and disbursement insurance equal to the commercial values of the vessels, but in no event less than 110 percent of the amount remaining unpaid on the purchase price of such vessel. In the event vessels are substituted, either by the operator or the Commission, the operator shall carry and maintain insurance covering such risks, under such forms of policies, in such amounts, and with such insurers or underwriters as the Commission may from time to time require and approve.

14. *Terms of sale.*—

(*a*) Warranties: The vessels are offered for sale "as is, where is" at date of award, excluding stores and bunker fuel, submarine signal apparatus, vacuum tubes, and other leased equipment, without warranty, guaranty, or representation as to seaworthiness, condition, description, capacity, tonnage or otherwise, except that said vessel shall be warranted free from liens.

(*b*) Time and place of delivery: The vessels will be delivered by the Commission to the operator with bills of sale in substantially the usual Government form and shall be accepted by the operator upon completion of voyages commenced on or before March 31, 1939, at the port of New York or at such other time or place as may be fixed by agreement between the Commission and the operator.

(*c*) Payment of purchase price: The operator shall be required to pay in cash upon delivery of the vessels together with bills of sale a sum equal to 25 percent of the amount of its bid. The balance of the purchase price of each vessel shall be payable in substantially three equal annual installments, with interest at the rate of 3½ percent per annum payable semiannually. Payment of such balance shall be evidenced by promissory notes and secured by first preferred mortgages on each vessel purchased and by a blanket first preferred mortgage on all of such vessels.

(*d*) Sales agreement and bill of sale: The operator will be required to execute, within 10 days after the form thereof is submitted by the Commission, a sales agreement covering the vessels purchased, satisfactory in form and substance to the Commission, which agreement shall include, among other things, the terms and conditions of sale and operation of the vessels as herein outlined for a period of 3 years, and also that the operator shall pay to the Commission the sum of $500 per day as liquidated damages for each vessel operated other than on the service, route, or line described in the sales agreement, unless the operation has been approved in writing by the Commission and under such conditions and regulations as the Commission may prescribe. In the event the operation of any vessel other than on said service, route, or line continues for a period exceeding 30 consecutive days, the operator shall forfeit the vessel and execute and deliver a proper bill of sale therefor to the Commission. The performance of the agreement with respect to the operation of any vessel purchased as herein provided shall be secured by a first preferred mortgage on the vessel whether or not such vessel has been purchased on a deferred payment plan, unless other security is furnished satisfactory to the Commission.

UNITED STATES MARITIME COMMISSION.
By ——— ———, *Chairman.*

[Form A]

BID FOR PURCHASE—AMERICA FRANCE LINE, ORIOLE LINES, AMERICAN-HAMPTON ROADS-YANKEE LINE

(Place)----------
(Date) ----------

SECRETARY, UNITED STATES MARITIME COMMISSION,
Department of Commerce Building, Washington, D. C.

In ... ur invitation for bids dated January 16, 1939, information and ... bidders, and terms of sale covering the sale of the America

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France Line, Oriole Lines, and American Hampton Roads-Yankee Line, together with the vessels named in said invitation, which by this reference is expressly made a part hereof and incorporated herein, the undersigned hereby offers to purchase the following-named vessels as indicated by the lump-sum amount set opposite each vessel, together with the trade name and goodwill of the line or lines under which such vessels are to be operated:

Item 1: Trade name and goodwill of the America France Line and the following-named vessels for operation in the service, route, or line and on the schedules described in paragraph designated 1 (a) of the invitation:

Name of vessel:	*Amount*
Collamer	
Independence Hall	
Pipestone County	
Schodack	

Item 2: Trade name and goodwill of the Oriole Lines and the following-named vessels for operation in the service, route, or line and on the schedules described in paragraph designated 2 (a) of the invitation:

Name of vessel:	*Amount*
Artigas	
Capulin	
Cold Harbor	
Quaker City	

Item 3: Trade name and goodwill of the American Hampton Roads-Yankee Line and the following-named vessels for operation in the service, route, or line and on the schedules described in paragraph 3 (a) of the invitation:

Name of vessel:	*Amount*
Capillo	
City of Flint	
Lehigh	
Liberty	
McKeesport	
Sarcoxie	
Satartia	
Vincent	

Item 4: Trade names and goodwill of the America France Line, Oriole Lines, and American Hampton Roads-Yankee Line and the following-named vessels for operation in the services, routes, or lines and on the schedules described in paragraphs designated 1 (a), 2 (a), and 3 (a) of the invitation, respectively:

Name of vessel:	*Amount*
Artigas	
Capillo	
Capulin	
City of Flint	
Cold Harbor	
Collamer	
Independence Hall	
Lehigh	
Liberty	
McKeesport	
Pipestone County	
Quaker City	
Sarcoxie	
Satartia	
Schodack	
Vincent	

Item 5: Trade name and goodwill of the America France Line and trade name and goodwill of the Oriole Lines and the following-named vessels for oper-

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ation in the services, routes, or lines and on the schedules described in paragraphs designated 1 (a) and 2 (a) of the invitation, respectively:

Name of vessel:	*Amount*
Artigas	
Capulin	
Cold Harbor	
Collamer	
Independence Hall	
Pipestone County	
Quaker City	
Schodack	

Item 6: Trade name and goodwill of the America France Line and trade name and goodwill of the American Hampton Roads-Yankee Line and the following-named vessels for operation in the services, routes, or lines and on the schedules described in paragraphs designated 1 (a) and 3 (a) of the invitation, respectively:

Name of vessel:	*Amount*
Capillo	
City of Flint	
Collamer	
Independence Hall	
Lehigh	
Liberty	
McKeesport	
Pipestone County	
Sarcoxie	
Satartia	
Schodack	
Vincent	

Item 7: Trade name and goodwill of the Oriole Lines and the trade name and goodwill of the American Hampton Roads-Yankee Line and the following-named vessels for operations in the services, routes, or lines and on the schedules described in paragraphs designated 2 (a) and 3 (a) of the invitation, respectively:

Name of vessel:	*Amount*
Artigas	
Capillo	
Capulin	
City of Flint	
Cold Water	
Lehigh	
Liberty	
McKeesport	
Quaker City	
Sarcoxie	
Satartia	
Vincent	

(If any of the vessels under any of the items are to be excluded from purchase pursuant to paragraph 2 of the invitation, designate here the vessels so to be excluded.)

This bid is submitted on condition that the undersigned, if the successful bidder, be granted an operating-differential subsidy for the operation of

---

(Name line or lines bid on)

for a period of 3 years, with the initial schedule of subsidy items and percentages substantially as heretofore announced by the Commission. The undersigned hereby applies for such subsidy.

In the event the bid is accepted for any of said items, the undersigned agrees that it will execute the appropriate agreements referred to in the invitation and will furnish the security required by the invitation, all within the period stated therein.

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Preference, if any, claimed under provisions of section 7 of the Merchant Marine Act, 1920, are as follows:

Affidavit of citizenship of the undersigned is attached hereto.

Name of bidder

By ---

Attest:

[CORPORATE SEAL]

AFFIDAVIT OF CITIZENSHIP

STATE OF ---,

County of ---, *ss:*

I, ---, the --- of the ---

(hereinafter referred to as bidder), being duly sworn do depose and say as follows:

1. That the bidder is a corporation duly organized and existing under and pursuant to the laws of the State of ---.

2. That in my capacity as said --- I am thoroughly familiar with the bidder's corporate records and stock books and personally know the officers and directors.

3. That all of the officers and directors of the bidder are citizens of the United States.

4. That title to ------ percent of the stock of the bidder is vested in citizens of the United States free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; that ------ percent of the voting power in the bidder is vested in citizens of the United States; that there is no contract, understanding or arrangements that more than ------ percent of the voting power of the bidder may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States, and that the control of the bidder is not conferred upon nor permitted to be exercised by any person who is not a citizen of the United States by any means whatsoever.

Sworn and subscribed before me this ---------- day of ----------, 1939.

Notary Public.

[Form B]

BID FOR CHARTER—VESSELS FOR OPERATION UNDER TRADE NAME AMERICA FRANCE LINE, ORIOLE LINES, AMERICAN HAMPTON ROADS-YANKEE LINE

(Place)---

(Date)---

SECRETARY, UNITED STATES MARITIME COMMISSION,
Department of Commerce Building,
Washington, D. C.

In response to your invitation for bids dated January 16, 1939, information and instructions to bidders, and terms of charter covering the bare-boat charter of vessels for operation under the trade names America France Line, Oriole Lines, and American Hampton Roads-Yankee Line, which by this reference is expressly made a part hereof and incorporated herein, the undersigned hereby offers to charter the following-named vessels as indicated by the lump-sum amount set opposite each vessel, for operation under the trade name designated for such vessels:

Item 1: The following-named vessels for operation under the trade name America France Line in the service, route, or line and on the schedules described in the paragraph designated 1 (a) of the invitation:

Name of vessel:	*Amount per month*
Collamer	
Independence Hall	
Pipestone County	
Schodack	

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Item 2: The following-named vessels for operation under the trade name Oriole Lines, in the service, route, or line and on the schedules described in paragraph designated 2 (a) of the invitation:

Name of vessel:	*Amount per month*
Artigas	
Capulin	
Cold Harbor	
Quaker City	

Item 3: The following-named vessels for operation under the trade name American Hampton Roads-Yankee Line, in the service, route, or line and on the schedules described in paragraph 3 (a) of the invitation:

Name of vessel:	*Amount per month*
Capillo	
City of Flint	
Lehigh	
Liberty	
McKeesport	
Sarcoxie	
Satartia	
Vincent	

Item 4: The following-named vessels for operation under the trade names America France Line, Oriole Lines, and American Hampton Roads-Yankee Line, in the services, routes, or lines and on the schedules described in paragraphs designated 1 (a), 2 (a), and 3 (a) of the invitation, respectively:

Name of vessel:	*Amount per month*
Artigas	
Capillo	
Capulin	
City of Flint	
Cold Harbor	
Collamer	
Independence Hall	
Lehigh	
Liberty	
McKeesport	
Pipestone County	
Quaker City	
Sarcoxie	
Satartia	
Schodack	
Vincent	

Item 5: The following-named vessels for operation under the trade name America France Line and trade name Oriole Lines, in the services, routes, or lines and on the schedules described in paragraphs designated 1 (a) and 2 (a) of the invitation, respectively:

Name of vessel:	*Amount per month*
Artigas	
Capulin	
Cold Harbor	
Collamer	
Independence Hall	
Pipestone County	
Quaker City	
Schodack	

Item 6: The following-named vessels for operation under the trade name America France Line and trade name American Hampton Roads-Yankee Line, in the services, routes, or lines and on the schedules described in paragraphs designated 1 (a) and 3 (a) of the invitation, respectively:

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Name of vessel:	*Amount per month*
Capillo	
City of Flint	
Collamer	
Independence Hall	
Lehigh	
Liberty	
McKeesport	
Pipestone County	
Sarcoxie	
Satartia	
Schodack	
Vincent	

Item 7: The following-named vessels for operation under the trade name Oriole Lines and trade name American Hampton Roads-Yankee Line, in the services, routes, or lines and on the schedules described in paragraphs designated 2 (a) and 3 (a) of the invitation, respectively:

Name of vessel:	*Amount per month*
Artigas	
Capillo	
Capulin	
City of Flint	
Cold Water	
Lehigh	
Liberty	
McKeesport	
Quaker City	
Sarcoxie	
Satartia	
Vincent	

(If any of the vessels under any of the items are to be excluded from charter pursuant to par. 2 of the invitation, designate here the vessels so to be excluded.)

This bid is submitted on condition that the undersigned, if the successful bidder, be granted an operating-differential subsidy for the operation of

---
(Name line or lines bid on)

during the term of the charter, with the initial schedule of subsidy items and percentages substantially as heretofore announced by the Commission. The undersigned hereby applies for such subsidy.

In the event the bid is accepted for any of said items, the undersigned agrees that it will execute the appropriate agreements referred to in the invitation and will furnish the security required by the invitation, all within the period stated herein.

Affidavit of citizenship of the undersigned is attached hereto.

(Name of bidder)

By ---

Attest:

[CORPORATE SEAL]

AFFIDAVIT OF CITIZENSHIP

STATE OF ---,
County of ---, *ss:*

I, ---, the --- of the --- (hereinafter referred to as bidder), being duly sworn do depose and say as follows:

1. That the bidder is a corporation duly organized and existing under and pursuant to the laws of the State of ---.

2. That in my capacity as said --- I am thoroughly familiar with the bidder's corporate records and stock books and personally know the officers and directors.

3. That all of the officers and directors of the bidder are citizens of the United States.

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4. That title to ____ percent of the stock of the bidder is vested in citizens of the United States free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; that ____ percent of the voting power in the bidder is vested in citizens of the United States; that there is no contract, understanding or arrangement that more than ____ percent of the voting power of the bidder may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States, and that the control of the bidder is not conferred upon nor permitted to be exercised by any person who is not a citizen of the United States by any means whatsoever.

Sworn and subscribed before me this ____ day of ____, 1939.

---,
Notary Public.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the rules of the House of Representatives, changes in sections 704, 705, 706, and 707 of the Merchant Marine Act, 1936, as amended, made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

SEC. 704. All vessels transferred to or otherwise acquired by the Commission in any manner may be chartered or sold by the Commission pursuant to the further provisions of this Act. [All vessels transferred to the Commission by this Act and now being operated by private operators on lines in foreign commerce of the United States shall be temporarily operated by the Commission for its account by private operators until such time and upon such operating agreements as the Commission may deem advantageous, but the Commission shall arrange as soon as practicable to offer all such lines of vessels for charter as hereinafter provided, preference to be given to present operators, and all operation of the Commission's vessels by private operators under such operating agreements shall be discontinued within one year after the passage of this Act: *Provided*, That nothing herein contained shall prevent private operators, under such operating agreements, commencing voyages prior to said expiration date and completing them thereafter: *Provided further*, That] *Pending such charter or sale the Commission, under such agreements as it may deem advantageous, is authorized to operate such vessels for its account on lines in foreign commerce of the United States. In the case of any line being operated by the Commission on February 1, 1939, preference in the operation, sale, or charter thereof shall be given to the agent operating such line for the account of the Commission on such date. Before advertising any such line for sale or charter, and notwithstanding any advertisement prior to February 1, 1939, for such sale or charter, the Commission shall negotiate with the agent who on such date was operating such line for the account of the Commission for sale or charter of such line to said agent, and may negotiate with any other person for sale or charter of such line to such person. The Commission, pursuant to such negotiation, may enter into an agreement or agreements for such sale or charter upon such terms and conditions as will give preference to the operator who was operating such line on February 1, 1939, insofar as it may be possible to do so consistent with the purposes and policy of this Act and with carrying into effect the requirements of said section 809 of this Act: Provided, That if any such line shall be disposed of by negotiation, a full report thereof with reasons therefor shall be made to Congress at the earliest opportunity. Except as in this section otherwise specifically provided,* nothing contained herein shall be construed as limiting or affecting the power of sale under the provisions of section 705 of this Act.

SEC. 705. As soon as practicable after the passage of this Act, and continuing thereafter, the Commission shall arrange for the employment of its vessels in steamship lines on such trade routes, exclusively serving the foreign trade of the United States, as the Commission shall determine are necessary and essential for the development and maintenance of the Commerce of the United States and the national defense: *Provided*, That such needs are not being adequately served by existing steamship lines privately owned and operated by citizens of the United States and documented under the laws of the United States. It shall be the policy of the [Commission] *Commission, except as otherwise provided in section*

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704 of this Act, as amended, to encourage private operation of each essential steamship line now owned by the United States by selling such lines to citizens of the United States in the manner provided in section 7 of the Merchant Marine Act, 1920, and in strict accordance with the provisions of section 5 of said Act, or by demising its vessels on bare-boat charter to citizens of the United States who shall agree to maintain such line or lines in the manner hereinafter provided.

SEC. 706 (a) [The] *Except as otherwise provided in section 704 of this Act, as amended, the* Commission shall not charter its vessels to private operators except upon competitive sealed bids submitted in strict compliance with all the terms and conditions of a public advertisement soliciting such bids. Each and every advertisement for bids to charter the Commission's vessels shall state the number, type, and tonnage of the vessels the Commission is offering for bare-boat charter for operation as a steamship line on a designated trade route, the minimum number of sailings that will be required, the length of time for which the charter will be given, and all other information the Commission shall deem necessary for the information of prospective bidders.

(b) The Commission shall have authority to, and shall announce in its advertisements for bids that the Commission reserves the right to reject any and all bids submitted.

SEC. 707. *Except as otherwise provided in section 704 of this Act, as amended*—

(a) The Commission shall award the charter to the bidder proposing to pay the highest monthly charter hire unless the Commission shall reject such bid for the reasons set forth in subsection (b) of this section.

(b) The Commission may reject the highest or most advantageous or any other bid, if, in the Commission's discretion, the charter hire offered is deemed too low, or the Commission determines that the bidder lacks sufficient capital, credit, or experience to operate successfully the line; but the reason or reasons for rejection of any bid, upon request of the bidder, shall be stated to such bidder in writing.

(c) If the highest bid is rejected, the Commission may award the charter to the next highest bidder, or may reject all bids and readvertise the line: *Provided, however,* That the Commission may operate the line until conditions appear to be more favorable for a reoffering of the line for private charter.

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Senator OVERTON. I think that report very correctly and succinctly discloses the contentions made by the proponents of the bill, and, without objection, we shall, by reference, incorporate the hearings before the House Committee.

Now it was also suggested at the committee hearing the other day that in view of the fact that the House had had these hearings and had made a report, and that it was considered proper to take speedy action on this bill, that there should be a representative from the Maritime Commission and there should be a representative from the ship operators, and therefore I requested the Maritime Commission to have someone to represent it here and the ship operators to have someone to represent them. I understand that Admiral Land is here representing the Maritime Commission.

Senator BAILEY. Mr. Chairman, I suggest that we hear the proponents of the bill and then in executive session let us hear the Maritime Commission. I make that as a motion.

Senator GUFFEY. I second the motion.

Senator WHITE. Mr. Chairman, of course I am not going to object to it very seriously, if it is the desire of the chairman of the full committee and the chairman of the subcommittee, but I was rather curious to know if there was any special reason why the testimony of one party should be in executive session and the testimony of the other party should be in open session?

Senator BAILEY. No. I am willing to make them both executive.

Senator WHITE. My question does not involve a criticism, it is just seeking for information. Are there special reasons why the testimony in one case should be in an open session and the testimony in the other case should be in an executive session?

Senator BAILEY. I have general reasons in my mind about that. I think the committee ought always be prepared to deal with the instrumentality which it creates in a confidential way. There may be some things we want to know that we do not care to make public. However, if you want to hear the Admiral in open session, it is agreeable to me.

Senator WHITE. I am not going to ask for anything in particular about it. I just wanted to know whether there were special considerations in this case which required that part of the testimony should be executive?

Senator BAILEY. None that I know of. I do not know what the admiral will say, but I do think he should speak to us in executive session in order that he may speak very freely. That is all I have in mind.

Senator BARBOUR. Mr. Chairman, as is the case with the Senator from Maine, I, of course, would not think of objecting to the suggestion of the chairman of the full committee. I was wondering if the admiral could perhaps testify other than in executive session, and then if there are matters which he feels should be considered confidential perhaps confine the executive session to those matters.

Senator BAILEY. I think he could do that. I do not think he should be put on first.

Senator GUFFEY. Let us have the proponents of the bill first.

Senator OVERTON. I was not suggesting as to who to put on first. I was simply ascertaining who was representing the shipping owners

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and who was representing the Maritime Commission, then I was going to suggest, if it met with the pleasure of the committee, that the proponents of the bill be heard first.

Senator WHITE. May I suggest just one other thing? Of course, Mr. Chairman, we have had some rather striking illustrations of the confusion and criticism that result from executive discussions of public matters. Now, I recognize that there may be occasions when officers of the Government should talk to us in confidence, but unless there are those special considerations—and I am always willing to defer to the judgment of the officer himself as to whether what he has in mind to say should be for the public benefit, or should be for the exclusive and confidential benefit of the committee—but unless there are special considerations I am just a believer in the proposition that these public matters should be discussed publicly. I would not hesitate a moment if the Admiral said there were some things which he preferred to say to the committee in confidence—I would not hesitate a moment to defer to his desire in that respect.

Senator BAILEY. What do you say, Admiral?

Admiral LAND. I would be very happy, Mr. Chairman, to testify both at the public hearing and then, if there are any further points that the committee feel I could elucidate in executive session, I should be glad to do that, too.

Senator OVERTON. Would there be any objection to pursuing that course? We will hear from the proponents first.

Senator BARBOUR. No, Mr. Chairman; I think that is the right course.

Senator OVERTON. Admiral, do you have a man representing the Maritime Commission?

Admiral LAND. There are four of us here, all representing the Commission, but, as far as I know, unless you want it otherwise, I would be the spokesman.

Senator OVERTON. It depends very largely on how long the subcommittee wishes to continue the hearings. I think the hearings before the subcommittee could be largely confined, first, to stating succinctly the issues involved in the bill, and then any new matter that had not been brought out in the House hearings, unless, of course, the members of the subcommittee desire information that would duplicate what has been said in the House hearing. I regret that the House hearings have not been printed. I had the advantage of getting a galley proof of the hearings, but I got only two copies. I sent one to Senator Bailey, and I retained one for myself. The members of the subcommittee may not know what information was brought out at the House hearing, the argument and reasons advanced both for and against the bill.

Senator RADCLIFFE. Does that mean the report will not be printed or it is not yet ready?

Senator OVERTON. It will be printed, but it is not yet ready.

Senator RADCLIFFE. When will it be available to us?

Senator OVERTON. The last part of this week. That is about tomorrow. That is the advice that my office received.

Senator GUFFEY. We will have it before the full committee meeting, or before another meeting of this subcommittee.

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Senator OVERTON. It will be ready for the full committee meeting by next Tuesday, I am quite sure.

Now, who represents the managing agents of the ship operators?

Mr. PAYNE. I do, Mr. Senator.

Senator OVERTON. That is Mr. I. H. Payne?

Mr. PAYNE. Yes.

Senator OVERTON. You are president of the Cosmopolitan Shipping Co.?

Mr. PAYNE. Vice president.

Senator OVERTON. And Mr. Taylor?

Mr. TAYLOR. W. F. Taylor.

Senator OVERTON. You represent the Southgate Nelson Corporation?

Mr. TAYLOR. Southgate Nelson Corporation of Norfolk, Va.

Senator OVERTON. Both of you desire to be heard?

Mr. TAYLOR. We thought we might supplement each others remarks, but not go over the same grounds.

Senator OVERTON. Which one of you desires to speak first?

Mr. TAYLOR. Mr. Payne.

Senator OVERTON. Very well, Mr. Payne.

STATEMENT OF INMAN H. PAYNE, VICE PRESIDENT, COSMOPOLITAN SHIPPING CO., 42 BROADWAY, NEW YORK, N. Y.

Mr. PAYNE. Mr. Chairman, and members of the committee, I am very grateful for this opportunity and I will be extremely brief. The matter has been covered so thoroughly by the House and I think that their report is so complete that there is no use of attempting to go over that ground. I submitted a copy of a brief, or I read a copy of a brief to that committee, which I have here, and with your permission I would like to ask that it be incorporated in the record of this meeting.

Senator OVERTON. It is so ordered.

(The brief referred to is as follows:)

MEMORANDUM IN SUPPORT OF THE BARBOUR BILL (S. 1516)

The Cosmopolitan Shipping Co., Inc., operator of the America France Line, strongly supports the Barbour bill (S. 1516) to amend sections 704, 705, 706, and 707 of the Merchant Marine Act of 1936, as amended.

We are in favor of these amendments because:

1. They would make possible a continuance of the efficient and economical operation of the line that has been operated by us for so many years.

2. They would permit the preservation of the goodwill the line has already established by the efforts of the officials and employees of the Cosmopolitan Shipping Co., Inc.

3. They would place it within the power of the Maritime Commission to prevent the creation of a monopoly of essential services by large operating companies.

4. They would permit the Maritime Commission to exercise its discretion along the lines of congressional policy for fostering the American Merchant Marine in arranging for the operation of the remaining Government-owned essential services at a time when economic conditions render bids for either charter or purchase inopportune.

We are particularly interested in the enactment of this legislation because we believe it will enable the operators of the various Government-owned lines, who have spent many years in the development of their services and in acquiring

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a thorough knowledge of the trade conditions through intimate relations with the exporters and importers, to acquire such lines upon a reasonable basis, after negotiation in which there may be taken into consideration the many complicated world factors, which basis should be fair both to the Government and the operator, and thus place the line into private operation.

Each of these operators has a highly trained organization which has been engaged in operating the lines for a long period and which is thoroughly familiar with the peculiar conditions to be met in the operation of each line as an essential service, not only at the various ports of call but with the various exporters and importers.

We are interested in acquiring the America France Line because we are confident that if it is given a reasonable opportunity to expand along business lines it can be developed into a valuable element of the American merchant marine in the French trade for, obviously, it is proper that the two Republics be represented with their own flag services for the development of business between them. The French flag is well represented by the ships of the Compagnie Generale Trans-Atlantique, without any other French-flag competition. In the case of the American flag, the ships of the American France Line should also be relieved of other American-flag subsidized competition.

The advantage of goodwill in the development of shipping services is well-known, and this goodwill must always be a part of the program of successful operation. Ships without a proper shore personnel and proper contacts with shippers are equally as useless as shore organizations would be without ships. The two must be combined and developed as a unit in order successfully to compete with parallel foreign-flag services. It is through that combination that substantial services are built upon a sound basis.

We are interested in the passage of the Barbour bill because it will give the Maritime Commission an opportunity to negotiate directly with our company, as well as with the operators of other lines, for the private operation of the lines. We believe this procedure will work to the best interests of the Government since it will make possible the continued operation of the Government-owned lines in the hands of experienced operators who have spent many years in the operation of their respective services and who thus have an intimate knowledge of that service and hold the confidence of the shippers who use it.

Last year the Maritime Commission made a survey throughout various sections of the country for the purpose of ascertaining what the shippers require in order to attract them to increased use of American ships. I attended several of these hearings and observed that the majority of the shippers, if not all of them, insisted that regularity and frequency of sailings were paramount requirements if American ships are to receive greater support from American shippers.

Of course, in order to obtain support for the service we must not only convince the shippers, but also the foreign consignees. We have encountered in the past many instances where the foreign receivers of cargo direct the routing of their business in order to support their own national-flag service. They have even a greater incentive where they are not only nationalistically inclined, but where their flag service gives more frequent sailings, with faster ships, and at an identical cost of transportation.

I feel that greater support to American ships, particularly the slower cargo vessels, may be expected if a rate differential, based upon the slow speed of our vessels, were agreed to by the faster mail and passenger ships. This is a practice that I personally have advocated for a number of years, but without apparent result. This would give the shippers the choice between an express service at a higher freight rate and a slower freight service at a comparatively lower rate. This seems to us to be particularly essential now that our ships are becoming older. It should be in effect until the new and faster ships are in commission in the various services.

This is not a new thought in transportation, for it is a well-known fact that on our rail lines different classifications are applied to fast or slow freight. The same is also recognized among the passenger lines in establishing passenger fares.

The Government has expended large sums in maintaining the operation of the Government-owned lines, during the course of which the various organizations operating these American lines have developed and benefited by the experience gained in the actual operation of essential steamship services. It is for that reason that we feel the Barbour bill will make possible a benefit to the Government in disposing of the services so established, upon a business-

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like basis with full opportunity of discussion and adjustment, so that both the Government and the experienced operators will benefit to the greatest possible extent in the disposition of these lines for private operation.

The Barbour bill also permits a thorough study as to the requirements necessary to make a successful operation of each individual service. For example, it is our belief that today is not a propitious time to offer the lines for sale or charter. The present uncertainty of the European situation makes it inadvisable, particularly as it applies to France, which has during the past 8 years gone through crisis after crisis, with corresponding effect upon its economic life, resulting in a slowing down of the natural flow of commerce between the two countries. It would seem to be an unreasonable and even an unfair gamble of no present benefit to either the Government or the operators in view of the uncertainty of the European situation.

Just recently Ambassadors Kennedy and Bullitt were reported in the press to have made the statement that war involving Europe is highly imminent during the coming year.

The passage of this bill would permit the operator and the Government, through negotiations, to take into consideration this and other important factors, and to reach a basis of agreement that would be acceptable to prudent businessmen, as well as fair to the Government.

It is practically impossible to foretell now the future of our French commerce. A certain hazard always exists for those investing money in shipping, but with the economic unrest now confronting the world, and France in particular, it would seem imperative at this time to consider carefully all of these circumstances at round-table conference, in arriving at an arrangement for the disposal of the lines to private operation, and to assure the stability of the operation in the future.

Our company has bid repeatedly either for the purchase or the charter of the line. As far back as June 1929 we bid $1,550,000 for the purchase of the line, but we did not acquire it then for any reason for which we were responsible. On various occasions since then we have bid for the charter or purchase of the line, the last time being for the charter of the line on June 14, 1937. All of these bids were rejected for one reason or other, and, therefore, we feel that it is unfair to this company to require us continually to meet competitive bids to preserve the operation of this line in the hands of an operator who is familiar with the service. Not only has the repeated offer of the line for charter or sale, without any final result, made it difficult for us to make plans for expansion, but also to retain the continued support of loyal shippers who have not known from month to month whether the service would remain in our hands or would be taken over by another, or discontinued entirely. Certainly such conditions cannot be expected to better the American Merchant Marine in its dealings with its supporters.

The foreign line in competition, although having had serious difficulties of its own, has not been subjected to this peculiar handicap and it is only natural that it should take advantage of such uncertainty engendered by this practice in the American shippers and consignees to the detriment of the America-France Line.

In spite of these obstacles, however, we have for a number of years carried the major portion of freight from United States North Atlantic to French Atlantic and Channel ports and last year, with only 20 percent of the total sailings between North Atlantic ports and Havre only, we carried in excess of 40 percent of the cargo, which shows the advantage and essentiality of maintaining friendly relationships between the operator of the line and the shippers.

Recently, however, by direction of the Maritime Commission, the services of the America-France Line have been reduced from a 10-day sailing from New York to a fortnightly sailing. This had the natural tendency to so espace the sailings that it will make it unattractive and inconvenient for many of our important shippers to continue their full support.

Again, it must be borne in mind that those who would charter the line today would not have the privilege of withdrawing ships or placing them in other trades if the business to France is further retarded, but must continue the service for a period of 3 years regardless of business conditions.

In the case of foreign lines, however, withdrawal of ships to place them in other services can be done at the discretion of the owners with no restrictions such as are implied in the proposed charters of American ships. For example, Furness Withy, after initiating a French service, withdrew its ships due to bad business conditions and strong competition and placed them in

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more lucrative services. The same was also true of the Lloyd Royal Belge and, to a minor degree, of the United States Navigation Co. and Isbrandtsen Moller.

It requires no argument that if foreign service units now operated for Government account by the various operating agenices are to be disposed of upon bids, a serious danger to the success of the policies of Congress arises. If any of these lines are bid in by a larger operating company it would tend to create a monopoly, which is contrary to the policy of the Government, and the service would naturally lose much of the goodwill already established at the expense of so much investment of capital and effort. It cannot be denied that a rupture of personal contacts between the shipper and the operator will go far to destroy the long established goodwill existing between the shippers and the present operators. Before inviting this danger, such consequences should be carefully weighed. The Barbour bill takes cognizance of this condition and would make it possible to preserve this asset.

There still remains an important question of policy that should be definitely determined upon before the lines are offered for bid, in order to clear away an unfortunate condition which has existed for a number of years. That is, the overlapping of Government owned or subsidized foreign freight services.

It is well recognized that the support by the Government of two American steamship lines operating between the same ports is economically unsound unless there is enough business between those ports to support these two American lines. The present world economic conditions have reduced the movement of ocean borne freight traffic to such a point that in the case of the America France Line, for example, it can accommodate on a 10-day schedule all cargo moving east and westbound between American North Atlantic and French Atlantic and Channel ports in conjunction with the French Government-subsidized Compagnie Generale Trans-Atlantique. American shippers require for dependability a strictly cargo service to France that is not subject to the exigencies of passenger traffic.

Nevertheless, the United States Lines has been carrying cargo between New York and Havre on its New York-Hamburg service. Calls of the United States Lines at Havre resulted from the change of its French passenger and mail port from Cherbourg to Havre.

After this change of its passenger and mail port from Cherbourg to Havre, the United States Lines commenced to carry cargo between Havre and New York to the detriment of the America France Line, which up to that time had served the ports of Havre, Dunkirk, Bordeaux and St. Nazaire so satisfactorily to the shippers that with the French Line as its only foreign flag competitor the America France Line was carrying more than 50 percent of the cargo moving between American North Atlantic and French Atlantic and Channel ports. Thus the object which Congress set out to attain had been accomplished by the America France Line under the operation of the Cosmopolitan Shipping Co., Inc., and the intrusion of the United States Lines into the Havre freight service was economically unnecessary from the standpoint of that mandate of Congress in fostering an American merchant marine, and of the shippers in obtaining the prompt, safe, and regular tronsportation of their commodities.

This intrusion has worked to the disadvantage of both the America France Line and the shippers on the United States Lines to Germany. We feel that such an uneconomic condition should be corrected before a permanent disposition of the America France Line is made. We further believe that this situation does not prevail in other trade routes where American shipping is subsidized by the Government.

Accordingly, the operator who has built up the goodwill of an essential service, now Government-owned, is the logical one to acquire that service if the policy of Congress is to be recognized and accomplished. The goodwill now established could not be taken over undiminished by a strange operator. In fact, past experience has demonstrated that the goodwill created by one corps of employees cannot be transferred without serious impairment to a strange operating company.

The trade served by the America France Line has been recognized by succeeding administrations of the Shipping Board and the United States Maritime Commission as an essential service. We submit that the policy of Congress as announced in its legislation on the subject of the merchant marine can be best accomplished by the elimination of overlapping of other American Government-aided services and by arranging for the continued operation of this service by an operator whose past performances have demonstrated its ability and who

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will have a strong incentive to take over and develop the operation of the line from the standpoint of a prudent businessman.

The Barbour bill will also have a most important effect upon the present law because it will eliminate the now existing mandatory provision requiring "All operations of the Commission's vessels by private operators under such operating agreements shall be discontinued within 1 year after the passage of this act." It is our understanding that it is this provision of law that the Maritime Commission considers mandatory upon it, even in spite of the present unsettled economic conditions, again to advertise the lines for sale or charter.

This legislation should be helpful to the Maritime Commission so as to permit it to use its discretion, unhampered by any time element, for the advantageous disposal of the line for private operation, which is in the contemplation of the various shipping acts adopted by Congress.

Our company has always considered itself a part of a partnership with the Government in the operation of the French service for the continued development of America commence and it approaches this subject still with that view and with the hope and desire of continuing to function as a part of the American shipping industry.

Again, when the new ships are placed in commission, it will be necessary for them to be exmployed in existing essential trade routes, and we are hopeful that conditions will be brought about that will permit their charter to lines such as the America France Line for private operation upon a more competitive basis as to speed with their foreign competition.

The Cosmopolitan Shipping Co., Inc., has devoted all its energies for many years past to the building up and operation of the America France Lines, solely.

Under all of these circumstances, we strongly and respectfully urge the favorable consideration by this committee of the Barbour bill now before it.

Mr. PAYNE. I also have a copy of a letter that we addressed to the Maritime Commission under the date of February 17, 1939, in response to their call for bids which, with your permission, I should also like to incorporate, because I think that these two documents state our position.

Senator OVERTON. The official reporter will incorporate the letter at this point in the hearing.

(The letter referred to is as follows:)

COSMOPOLITAN SHIPPING CO., INC.,
42 Broadway, New York City, February 17, 1938.

UNITED STATES MARITIME COMMISSION,
Washington, D. C.

DEAR SIRS: We duly received your invitation, dated January 16, 1939, for sealed bids for the purchase of the trade name and goodwill of the America France Line, the Oriole Line, and the American Hampton Roads-Yankee Line, and/or the charter (bare-boat basis) of such vessels for such operation in the lines.

We also acknowledge receipt on February 6 of the addendum to such invitation referred to in the note at the top of page 5 of the invitation.

Under the terms of the invitation, the form of bid is unalterable according to the following language taken from paragraph 5, page 5, of the invitation as follows:

"The Commission will not receive, either directly or indirectly, from bidders or from any persons acting for them, any communication, plan, or explanation, either oral or in writing, tending to explain or modify their bids in any way whatever, unless such communication, plan, or explanation is called for by the Commission."

Under such terms and in view of several conditions contained in the invitation, we regret exceedingly that after mature thought we have reluctantly reached the conclusion that it would be impracticable to submit a bid either for the purchase or charter of any of the vessels or lines requested, and beg to set forth some of our reasons for being forced to reach this conclusion.

Without multiplying examples, we respectfully call your attention to some of the provisions in the invitation which have had a strong influence upon us.

Paragraph 3 (a), page 4—Substitution of vessels by the operator: There is no limitation upon the terms and conditions that the Commission may impose or approve for the substitution of other cargo vessels to be used in a line, nor

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is there any definition of the required service which might be satisfactory to the Commission.

Paragraph 3 (b), page 4—Substitution of vessels by the Commission: The Commission may substitute "presently existing or newly constructed cargo vessels" and all the provisions of the charter would be subject to provisions of law "then in effect" without any limitation or qualification as to the scope or application of such laws.

This paragraph also provides for an adjustment of basic charter hire subject to such future laws and within the discretion of the Commission. The operation of such a provision it seems would be such that a bidder would, in effect, obligate himself to perform a contract, the ultimate terms of which are now unknown.

The minimum charter hire of such new vessels, as fixed by section 714 of the Merchant Marine Act, 1936, at 5 percent of the actual construction cost of such vessel is now prohibitive.

Under the provisions of this paragraph a successful bidder, if he could not agree with the judgment of the Commission, might forfeit all his rights and, in addition, would be required to pay as liquidated damages 12½ percent of the aggregate amount of any differential subsidy paid him under his charter.

Paragraph 4 (a), page 4—Operating differential subsidy: A bidder should base his bid upon some fixed subsidy rate for the life of the contract. This paragraph provides that the subsidy may be modified during the term of the contract whenever deemed necessary or advisable by individuals or authorities unnamed but whose discretion seems unlimited.

Similar difficulties confront us in a number of the succeeding terms of the invitation, but the few above set forth are some of the more important reasons that have compelled us to take the decision we have reached.

It is unnecessary at this time to detail the length of time this company has been operating the America France Line, for these facts are well known to you, but suffice it to say, our company established the original French service of American steamers in 1918 and has been continuously operating your ships, exclusively, in that service and other trades for the last 18 years.

It has been our policy and objective at all times, and still is, to cooperate with the Government in the management and disposal to private operation of the America France Line, and we have on every occasion, when opportunity to bid has been offered, submitted our bids either for the charter or purchase of the line under conditions which we felt, due to our long and thorough knowledge of the trade, then represented a fair business risk. In this respect we beg to refer to our letter of June 14, 1937, transmitting our latest bid. Many of the problems there outlined still confront us in our consideration of the present call for bids, and we believe they can best be disposed of in the manner contemplated in the two bills referred to below.

Accordingly, we are supporting the O'Leary bill (H. R. 2382) and the Barbour bill (S. 656) now before the committees of both Houses, which, if enacted into law, would empower you and would give us the opportunity to discuss and analyze all factors and circumstances which should be taken into account in arriving at the objectives that we both desire, namely, a workable operating arrangement which is fair both to the Government and to the private operator, and which would assure the continuance of this essential service into the future in accordance with your long-range policy. An important purpose of the bills above mentioned is to permit just such negotiations to arrive at a working agreement that would secure that result.

We understand Congress has always desired, as long as the public interest is fully protected, that the operators who have devoted their careers to the development of such American lines, to service these trade routes, be granted a preference in the acquisition of such lines for private operation, particularly when the reputation of the operator arising out of his long dealings with the Government assures his complete reliability.

A condition which has been uppermost in our minds since 1932 lies in the possibility that you will decide to eliminate competition between two overlapping private operators, both subsidized by the Government, which results in no definite benefit to the public, but is destructive to both lines, and we hope that before final disposition of the America France Line to private interests such an anomaly will not be permitted to exist.

In line with the request for suggestions for consideration in connection wtih future proposals, and dealing only with the America France Line, we believe that a return to the 10-day sailing schedule from New York would

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make the charter of the line much more attractive and would more adequately meet the requirements of the trade at the present time by giving a better service from all North Atlantic ports in our range.

Again, a most determining factor is the uncertainty as to the amount of subsidy that will be ultimately allowed under the present invitation, for we know that the percentages stipulated in your addendum of February 3 in the case of the America France Line, in view of your present interpretation of the act, would be inadequate unless a countervailing subsidy is provided for the American private operator of the line to meet the similar subsidy paid by the French Government itself to our only foreign-flag competitor, the Compagnie Generale Transatlantique, for the purposes of meeting the lower operating costs of its foreign competitors. This subject is outlined in our letter to you of February 11, 1939. The subsidy contemplated under the policy of the Merchant Marine Act, 1936, is clearly intended to counterbalance such foreign-flag advantages.

Because the conditions and terms of the invitation are so fixed and unalterable, and because there are so many factors which must be taken into consideration and provided for, which cannot be incorporated in the designated form of bid, and which involve elements that must be defined with certainty so as to permit any bidder to formulate a reliable and acceptable bid which would assure the continuance of the line, it is therefore with sincere regret that we are unable to comply with this invitation.

Yours very truly,

INMAN H. PAYNE,
Vice President.

Mr. PAYNE. Now, Mr. Chairman, I come before you because we are fighting for our American life. When I say "our American life" I mean American life in shipping. We started in the business, to be very brief, in 1915. We had a number of chartered foreign ships and owned a number of American ships. In 1918 we commenced operating Shipping Board ships.

Senator GUFFEY. Pardon me. What line do you represent?

Mr. PAYNE. The Cosmopolitan Shipping Co.

Senator OVERTON. That is the America France Line?

Mr. PAYNE. The America France Line.

Senator OVERTON. When you say "we" do you refer to the America France Line or to the Cosmopolitan Shipping Co.?

Mr. PAYNE. I am referring to the Cosmopolitan Shipping Co. The Cosmopolitan Shipping Co. is an organization controlled by four active interests. They are all active in the operation of the company.

Senator GUFFEY. Pardon me. Do you operate any other lines besides the America France Line?

Mr. PAYNE. No; we operate no other lines, unfortunately, except the America France Line, though on several occasions in the past, in the old Shipping Board days, we attempted to take on several foreign operations, but they felt if we operate American ships we could not also operate foreign ships, so we confine ourselves to the operation of the America France Line today. We have an organization that has been functioning, I think the entire personnel has been with us since 1920. It is a smoothly running organization. We have devoted our entire efforts to this line. We have, on a number of occasions, attempted to either charter or purchase the line.

Senator OVERTON. Before you make a statement with reference to the America France Line, may I ask you just to state how many lines are affected by this bill and what they are, and how many ships are involved?

Mr. PAYNE. I believe there are four. The America France Line is one of them.

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Senator OVERTON. The Oriole Line?

Mr. PAYNE. The Oriole Line, the American Hampton Roads-Yankee Line, and the American Pioneer Line.

Senator OVERTON. There are 28 ships involved?

Mr. PAYNE. There are 28 ships involved, I believe, although I am not certain about that, sir.

Senator OVERTON. And about what are the ages of those ships, on an average?

Mr. PAYNE. The ages of those ships today would run 19 years old, on an average.

Senator OVERTON. They were built during the World War?

Mr. PAYNE. They came out, I believe, Mr. Chairman, about 1918 to 1920. They vary. I do not have the exact dates, but between those two periods I believe.

Senator OVERTON. All right.

Mr. PAYNE. Now, this has been such a serious controversy for a number of years that in order not to go over the whole ground but simply to cover some of the more pertinent facts, I will just refer you to the merchant-marine investigation, appendix to hearings before the Committee on Merchant Marine, Radio, and Fisheries of the House of Representatives, Seventy-second Congress, first session, on page 179 to page 184. There are so many factors that enter into it that I do not want to repeat them, so I will try to be brief. I am not a lawyer, so forgive me if I try to get into too much detail on it.

In 1929 our company built——

Senator OVERTON (interposing). Perhaps I better ask another question before you proceed along that line of thought. Let me see if I can clearly state the question that is now before the subcommittee in considering this bill.

Mr. PAYNE. Yes, sir.

Senator OVERTON. If I am wrong you may correct me or Admiral Land will correct me.

Mr. PAYNE. Yes, sir.

Senator OVERTON. As I understand it, the Maritime Act of 1936 declared it to be the policy of the Government to dispose of these Government-owned vessels, and that they are to be disposed of either by sale or by chartering.

Mr. PAYNE. Yes, sir.

Senator OVERTON. And either the sale or the chartering must be effected by advertising, by sealed bids, and after the sealed bids have been received, then the award would be to the highest bidder, but other considerations enter into it, and one of these is that, first, they must be sold to American citizens.

Mr. PAYNE. Yes, sir.

Senator OVERTON. Then the Maritime Commission should consider whether they are qualified to handle these vessels.

Mr. PAYNE. Yes, sir.

Senator OVERTON. Whether they have had the experience and whether they have financial and other backing at the domestic por that these vessels serve.

Mr. PAYNE. That is correct.

Senator OVERTON. That is the law as it stands today.

Mr. PAYNE. Yes, sir.

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Senator OVERTON. The disposition of them shall be under competitive bidding by sale or charter.

Mr. PAYNE. That is correct, sir.

Senator OVERTON. With a view of effecting, by private negotiation, some satisfactory agreement with the operators.

Mr. PAYNE. And the Government.

Senator OVERTON. How is that?

Mr. PAYNE. And for the Government, of course.

Senator OVERTON. Yes; one that would be satisfactory to the Maritime Commission representing the Government and to the operator, and also authorizing them to negotiate with other prospective bidders or purchasers or charterers of these vessels.

Mr. PAYNE. In the event that a successful charter cannot be made with the present operator.

Senator OVERTON. Yes.

Senator RADCLIFFE. Mr. Chairman, pardon me. Has anything taken place? Has not the Maritime Commission already taken some action in the matter?

Senator OVERTON. Yes. As I understand it, in the beginning of this year the Maritime Commission advertised for bids, both for sale and/or charter, and a bid or bids were received on February 20. I further understand that only one bid was received and no action has yet been taken by the Maritime Commission in reference to that bid.

Senator BAILEY. Were you one of the bidders?

Mr. PAYNE. No, sir; we were not in this case, but my letter explains it.

Senator BAILEY. You had your opportunity to bid?

Mr. PAYNE. Yes, sir.

Senator BAILEY. Now, you have got a bill here to give you another opportunity. What is the idea? Why did not you bid in the first instance?

Mr. PAYNE. Well, we have bid on four different occasions. All of those bids were rejected.

Senator BAILEY. They were rejected in favor of superior bids, were they not?

Mr. PAYNE. No, sir. There were no other bids the last time we bid but the bid was rejected, and in this instance the bids required us to bid unconditionally, which we found impossible under the circumstances.

Senator BAILEY. Well, somebody else did bid that way?

Mr. PAYNE. Yes, sir. There may be reasons why they could and we could not.

Senator BAILEY. You waited until the opportunity to bid had passed, you did not bid, and now you come here with an amendment to enable you to negotiate privately, notwithstanding the bid. Now, if we set up that policy who would bid from that time on? I would not. I would come in and negotiate. Is not that the situation presented here?

Mr. PAYNE. No, sir; I believe this bill was introduced before the bids were submitted.

Senator BAILEY. Let us see about that. Did you ask for its introduction before?

Mr. PAYNE. I will not say that I asked for it in the first place. I am a proponent of it.

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Senator BAILEY. What was the origin of it, do you know?

Mr. PAYNE. Well, the origin of it, I assume, was that the bills were put in in order to correct what they felt would be an injustice in that the Commission can call for bids at anytime, because they have refused the bid.

Senator BAILEY. By permitting somebody to come in after the bids have been made and negotiate, does not that destroy your public bidding to start with?

Mr. PAYNE. Partially. Only insofar as that has been a common practice, apparently, in the past.

Senator BAILEY. I do not know enough about this, but is it inconceivable that I would come in and bid for Government property if I knew that thereafter somebody might negotiate privately and upset my bid?

Mr. PAYNE. No, sir.

Senator BAILEY. Now, we have got to have a public policy, either a private sale or public bids.

Mr. PAYNE. In the past you have called for bids and you have gotten responses and, unfortunately, the bids were too optimistic and the companies went out of business. That is not public policy, I do not think. I do not it would be public policy to do the same thing in this case.

Senator BAILEY. To have too optimistic bids?

Mr. PAYNE. Yes.

Senator BAILEY. That is up to the bidder. That does not trouble us.

Mr. PAYNE. That does trouble us because it destroys the American merchant marine. Every time you have a failure, and especially where you go to people and ask them to put money into American shipping and they point to all those failures, it is an awfully difficult job to get them interested.

Senator BAILEY. I believe that if that is the argument, that we should not have public bidding because bidders might be too optimistic, that would destroy the policy of public bidding.

Mr. PAYNE. That, of course, is not my argument.

Senator OVERTON. As I understand it, the position you take in the matter is this, that the Maritime Commission should first undertake, through private negotiations, to arrange an agreement that would be satisfactory to the Maritime Commission and be conductive to the interests of the Federal Government.

Mr. PAYNE. That is correct.

Senator OVERTON. And one that would be satisfactory to the operators, and failing in that, that they proceed to advertise.

Mr. PAYNE. That is exactly the point.

Senator OVERTON. The position you take, as a shipping operator who had been connected with these line for a great many years, is that you want to have a preference in negotiating by private arrangement with the Maritime Commission.

Senator WHITE. May I interrupt there, Mr. Chairman?

Senator OVERTON. Yes.

Senator WHITE. I would like to suggest that one of the elements in this situation was left out in your statement. The 1936 act, in express terms, provides that in the sale of these ships the preference which was accorded by section 7 of the 1920 act should be given to

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operators, to the shipping lines. Now, I never did quite know what that preference was, but it is something that is endeavored to be given by section 7 of the 1920 act and to be carried along and made a live thing in the handling of these ships under the 1936 act.

Senator OVERTON. That statement is correct. I did not undertake to give every aspect of the situation.

Senator WHITE. I think the questioning which has been going on made it pertinent that that should appear in the record at this point.

Senator OVERTON. As I understand it, the law contemplates that there shall be a public letting under sealed bids and that preference shall be given to the present operators, both in the chartering and in the sale of the vessel, when the Maritime Commission undertakes to consider to whom the award should be made, but it does not undertake to define what "preference" is.

Senator WHITE. I was going to say I confess in years past I have put a lot of time on this subject and I never did know what section 7 really meant.

Senator RADCLIFFE. Senator White, you do not know what the preference would mean in the event there is no bidding by the operator?

Senator WHITE. I just do not know what it means under any circumstances.

Senator RADCLIFFE. How would you construe that "if there is no bidding by the operator"?

Senator WHITE. My hands are up on that section. I do not know what it means. I never did know. I never was able to find anyone that was able to give me a satisfactory explanation as to what that preference described in the 1920 act really meant. I am just listening for explanation; I am not going to give any, because I do not know.

Mr. PAYNE. May I now answer your question, sir?

Senator OVERTON. Yes.

Mr. PAYNE. After all, the Government has spent an awful lot of money in the so-called development of these different operators, and in most cases in the past they have taken advantage of that by disposing of the lines to them. I do not recall a single instance in the past where the operator who was interested in acquiring a line got to first base, but you had the case of the Mississippi Shipping Co. that was sold some years ago; they were not the high bidder, they were the low bidder, but they acquired the line because Congress thought they were the ones to have it and they were the ones that spent their life developing it.

Senator OVERTON. Was not some criticism made of that award?

Mr. PAYNE. There was a good deal of criticism made of that award, but the Senate itself, in the case of the mail contract, awarded it to the highest bidder instead of the lowest bidder. What was the result of that, sir?

Senator WHITE. The Senate passed a resolution declaring, in effect, that the contract should go to the high bidder, not the low bidder.

Mr. PAYNE. To show the Congress was right in that case, the high bidder has been in receivership and the low bidder, who was allowed to get that line eventually, is one of the most successful operators of American shipping, and has done a tremendous amount of pioneer-

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ing work in your important field in South America today, that the President is very anxious to develop. Now I say the same thing might happen. The only bid for our line in this instance——

Senator OVERTON (interposing). Let me interrupt you. I would like you to make your statement, I do not like to be interrupting too much, but is not that argument of yours answered by the fact that the Maritime Commission, after it receives sealed bids, has a right to reject any and all bids for any reason that it is deemed necessary?

Mr. PAYNE. That is correct.

Senator OVERTON. Therefore it has the same opportunity that it otherwise would have in negotiating to determine whether or not the bidder is one that can successfully operate the line to the best interests of the American flag. That is correct, is it not?

Mr. PAYNE. That is correct, sir; absolutely.

Senator BAILEY. Do I gather that the object is to get rid of the policy of selling our Government property, whether it be ships or old clothes, without advertising for bids to do it?

Senator OVERTON. That, Senator Bailey, is the fundamental question involved, whether or not we should depart from the ancient and generally accepted policy of disposing of Government property either at public sale or after public bidding, or whether we should proceed to dispose of Government property at a private sale.

Senator BAILEY. Clearly we cannot abandon that historic policy on the ground that business may, on occasions, be too enthusiastic and overbid. That is not sufficient, and if our friend over here has got a further reason, I would be glad to get it.

Senator OVERTON. I think you better state succinctly your various reasons in support of the contention you make.

Mr. PAYNE. I do not want to bore you, but if you read the letter we submitted it will give it to you very clearly.

Senator OVERTON. I read it.

Mr. PAYNE. If the committee would read it, it will give you our views very concisely, without taking too much of your time.

We had exactly the same thing, Senator Bailey, when we tried to purchase the line in 1929. I would like to insert this letter in the record, because it is directly pertinent to our situation here.

Senator OVERTON. The letter may be inserted in the record.

(The letter referred to is as follows:)

DECEMBER 3, 1930.

The PRESIDENT,
The White House,

DEAR MR. PRESIDENT: We have the honor to inform you that, in our opinion, public interest will best be served by the sale of the American Diamond Lines to the Black Diamond Steamship Corporation, and America France Line to the Cosmopolitan Shipping Co., and the simultaneous award of adequate mail contracts to those companies. We believe that the services can be efficiently and successfully operated by these companies under private ownership with the assistance of proper mail compensation.

In reaching our conclusions, we have been guided by the principle that public interests can best be served by the successful operation and maintenance of the services at the minimum cost to the Government and with maximum efficiency in the development of American foreign commerce.

The services can be permanently maintained only with Government aid. Such aid cannot be justified by a profit it may produce to a shipowner but

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by the benefit it brings to the country at large through the development of foreign commerce, and, of course, in incidentally strengthening national defenses.

Profitable operation of the services under private ownership is necessary as with all successful commercial enterprises, but the profits should come from an efficient conduct and development of the business upon the shipowner being placed on a parity with foreign competitors, for Government aid, through mail compensation, should only be such as is necessary to meet the excess costs, over comparative foreign costs, of—

(*a*) operating the services with the ships to be sold and the new ships with which existing ships are hereafter replaced; and

(*b*) building such new ships in American shipyards.

To assure the services being placed on a secure basis, the sales and the awarding of the mail contracts should, so far as possible, be consolidated transactions. We suggest that consideration should be given to an amendment of the law to make this possible in future sales.

Until the replacements necessary during the terms of the mail contracts are determined, and the excess costs of operation and construction are ascertained, the required mail compensation cannot be computed, and the fair purchase prices at which the services and ships should be sold cannot be fixed.

Considering the ages of the ships now in use and the great cost to the Government of developing the American Diamond Lines and America France Line to the point where, with reasonable mail compensation, private interests can safely undertake their further operation and maintenance, the purchase prices are secondary to provisions for replacements which will give the United States a modern merchant marine and thereby help assure its permanence.

The Shipping Board has wisely and consistently applied this principle in other sales, for its prices have ranged from 52 cents to $27.15 per deadweight ton for cargo ships for restricted operation.

Low capital costs will help meet the differentials in operating costs, thus making a larger proportion of the mail compensation available to meet the excess costs of construction.

The purchase prices should be determined with due consideration to all these factors. This has not been done with the present instance.

Of primary importance are the replacement requirements. These should be determined only after careful study and consideration by the responsible Government officials, in collaboration with those experienced in the shipping business, and especially in the particular trades concerned, so that the replacement tonnage may be of a character most economical to construct and operate and yet insure the fullest development of American commerce.

It may be worse to overbuild than to underbuild in a given service, for the latter can be corrected whereas the former may impose a handicap much more difficult to overcome. Excessive speed should not be required where slower speed would be equally efficient. Large ships should not be built where more moderate sizes will take care of the business, and combination passenger and cargo ships should not be used where pure cargo ships are sufficient. The ships should be suitable to the service.

In our judgment, the sales of the services and ships are plain business propositions, which should be guided by the principles we have outlined. In this way alone can public interests be properly safeguarded and efficient private enterprise be assured of an opportunity to succeed.

Accordingly, we think that substantially the following procedure should be followed in disposing of the American Diamond Lines and America France Line:

1. All bids should be rejected by the Shipping Board.

2. The Postmaster General should, in collaboration with the Shipping Board and the prospective purchasers, determine (*a*) the character of services required to best promote commerce; (*b*) the number, type, size, and speed of the new ships which should be built during the mail-contract period to replace existing ships, so as to assure the permanence of the services; and (*c*) the excess costs, over comparative foreign costs, of operating the services and constructing the new ships.

3. The Postmaster General should, after ascertainment of the aforesaid excess costs, determine the maximum mail compensation reasonably necessary to meet the same, and call for bids, as authorized by law, for mail contracts, which shall provide for the operation of the services and the construction of new ships to meet the replacement requirements, and fix the maximum mail

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compensation which will be paid. The mail contracts should secure the proper application of the compensation to its intended purposes, and provide for an increase of compensation by the Postmaster General, if the bids are below the maximum allowed by law, in the event such increase becomes necessary to assure maintenance of the services.

4. The Shipping Board should, in collaboration with the prospective purchasers and with due regard to the aforesaid determinations by the Postmaster General respecting the services, replacements, and excess costs, ascertain the fair purchase prices which could justly be paid for the services and ships, and upon which a reasonable return could be earned under the conditions of trade reasonably to be anticipated. The sales should be made on those terms to the Black Diamond Steamship Corporation and Cosmopolitan Shipping Co., respectively, if and when they are awarded the mail contracts.

5. The mail contracts and sales agreements should be executed concurrently.

In this way, purchase prices fair to the seller and buyers could be obtained by the Government and adequate mail compensation should be awarded by the purchasers, so as to assure successful operation and maintenance of the services by placing them upon as secure a basis as is reasonably possible.

Our conclusions that the public interest would best be served by the sale of the American Diamond Lines to the Black Diamond Steamship Corporation, and the America France Line to the Cosmopolitan Shipping Co., are based upon the following considerations, namely:

1. The Shipping Board has followed the sound policy, in consonance with the views of the framers of the legislation which has made possible the upbuilding of our merchant marine, of placing the various Government services in the hands of different operators. This has resulted in the creation of new shipping concerns, many of them in ports other than New York. The United States has needed and still needs to develop as many substantial and capable organizations and executives in the shipping business as possible. It has been the recognition of this need and the confidence that they would be developed that has brought to constructive shipping legislation the support of Members of Congress, regardless of party lines, and of commercial and agricultural interests throughout the United States. The same policy should be followed wherever soundly applicable in the sales of the Government services.

2. The service now being operated under the trade name "American Diamond Lines" was established by the Shipping Board in 1920, and the Black Diamond Steamship Corporation was made the operator. It has continued in that capacity ever since, without any criticisms, so far as we can ascertain, of its efficiency, and without any suggestion of a change in management.

3. The business of the American Diamond Lines and the good will attaching to it, and to the Black Diamond Steamship Corporation, has been built up at an enormous cost to the Government, amounting, from 1923 to 1930, to $9,264,741.75, including $1,732,373.36 on account of Shipping Board overhead. The Black Diamond Steamship Corporation expended in the management of the service from 1920 to June 30, 1930, $123,000 more than it received in commissions from the Government.

4. Since the inception of the service, there has been a steady development of the business, from 33,881 tons in 1920 to 829,125 tons in 1929, until latterly the American Diamond Lines have been carrying more than one-third of the total business moving between United States ports and Rotterdam-Antwerp, as against two-thirds by the Red Star Line, Lloyd Royal Belge, and Holland-America Line.

5. In 1928 a pool was organized by the four companies in the United States-Rotterdam-Antwerp trade, and approved by the Shipping Board, under which a large part of the earnings are pooled. The American Diamond Lines receive 33 331 percent and the other three lines combined received 66.669 percent of the pool.

The arrangement has resulted in increased revenues, bringing the earnings of the American Diamond Line to a point where, with economies under private operation, and the payment of proper mail compensation, the net profits will be sufficient to make possible the purchase and successful operation of the services, and the construction of news ships necessary for replacement, so as to develop and maintain the service to its highest efficiency.

We see no reason why the pool should not continue indefinitely, for all the companies have tested its benefits and are surely wise enough to maintain fair rates and to reconcile their views as to the percentages of participation. It has

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able to it substantially the same organization, save perhaps the executive vice president, as has the present United States Lines, and if combined operation had been deemed better, certainly the Board could have easily transferred the management. The fact that during all these years it has retained the Black Diamond Steamship Corporation as the operator must be taken as evidence of the Board's confidence in its efficiency.

12. The present America France Line was established by the Shipping Board in 1923, and the Cosmopolitan Shipping Co., which had been operating owned and chartered ships in the same service since 1916, was made the operator. It has been continued as the operator without, so far as we can ascertain, any criticism of any suggestion of change in management.

13. The business of the America France Line has been built up at a large cost to the Government, amounting, from 1923 to 1930, to $5,363,993.59, including $1,324,701.41 on account of the Shipping Board overhead. In addition to this the Cosmopolitan Shipping Co. has expended since 1921, $123,543.86 more than it has received in commissions. It had, however, made a profit of $348,191 in 1920.

14. By 1923 the service had been developed almost to its peak as respected the tonnage of cargo, for there was carried in 1923, 546,223 tons, in 1929, 530,708 tons, and in the fiscal year ending June 30, 1930, 415,972 tons. There has been, however, a steady growth in the percentage of cargo carried by the America France Line of the total cargo moving until it has reached a point where a higher proportion is not likely to be obtained. This has been attained by the operation of pure cargo ships with a dead-weight tonnage from 7,600 to 9,700 tons, having an average speed of 10 to 11 knots, against the larger, speedier ships of its competitor, including a number of large passenger liners.

15. The Rotterdam Antwerp pool has resulted beneficially to the America France Line, because it has stabilized conditions and made possible an increase in freight rates. This was reflected in the financial results in the operations. In the fiscal years of 1928 the line lost $595,872.32, and in 1930, $193,523.17, including Shipping Board overhead. A continuance of the pool will be advantageous to the lines operating to French ports.

16. We see nothing to indicate that the America France Line will likely become involved in a ruinous rate war, because there is no reason why amicable relations should not continue with the French Line. As substantially all of the west-bound cargo originates in and the east-bound cargo is destined for French territory, there is little ground for ruinous competition with the lines operating to Antwerp, Rotterdam, and the German ports.

17. The Cosmopolitan Shipping Co. has a good organization in the United States, with its principal office in New York and agencies in other cities from which comes the largest part of its business. It has an unusually fine and active organization in France, with agents in every important commercial center, from which it draws its foreign business.

The officers and agents of the company have devoted their efforts largely to the development of this particular service, extending over a period of 14 years. The company has built up a good will in the trade. This is evidenced not only by the way it has developed and held its business but also by the very excellent letters of endorsements which have been presented to us.

18. So far as we can ascertain no criticism has ever been made of the efficiency of the Cosmopolitan Shipping Co.'s management. The Shipping Board has recognized its efficiency by rating the company at its highest classification as an operator. If it had not been efficient, undoubtedly the Board would have changed the management long ago, for it could have turned it over to the United States Lines, which was operating to Cherbourg, or to other operators.

19. It is urged on behalf of the United States Lines that, with its organization, widespread agencies and the influence of its purchasing power with shippers, it could operate the American Diamond Lines and America France Line jointly with its own service as efficiently as, or better than, the Black Diamond Steamship Corporation and Cosmopolitan Shipping Co. could separately.

It is also contended that the consolidation of the two services with the United States Lines would result in large savings in overhead, and would place the service in the hands of a large company which would be able to withstand the competition of the foreign lines longer than the other two companies, and especially so if and when Government support is withdrawn after the expiration of the mail contracts.

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20. As to the influence of purchasing power, it is our belief that this is overrated. Experience has shown that this may cut both ways, and that a shipper is just as likely to demand patronage as vice versa. The same practice can be indulged in by foreign lines, so that, so far as this influence is concerned, shipments are likely to be equitably distributed among carriers regardless of the effects of alleged purchasing power. Furthermore, the great bulk of the cargo transported in these trades is not of a kind consumed in steamship operations.

21. There is no evidence indicating that the organization of the United States Lines is or could be made more efficient for the securing of business than the organizations of the Black Diamond and Cosmopolitan companies. The results already accomplished by those companies in building up their business in competition with foreign lines demonstrates that they have very efficient organizations which could not be easily excelled.

22. If a reduction in overhead was to be made, the officials of the Black Diamond and Cosmopolitan companies would have to be discarded, and their work undertaken by the executives of the United States Lines. We do not see how it would be possible for these latter executives to give to the business the same personal attention which it requires and is now receiving at the hands of the Black Diamond and Cosmopolitan executives.

23. Unquestionably some saving could be made in overhead by the consolidation. The United States Lines has estimated this at $400,000 per annum. The Black Diamond and Cosmopolitan companies have made a survey of the situation and place the saving at a much smaller figure, which we think would come closer to the probable results.

24. Strong argument has been made on the advantages of consolidation. Unquestionably, in many instances improved results have been obtained through the merging of commercial interests into a larger unit, but these have usually resulted in a new organization being constructed from the best talent in the consolidated organizations.

This is not the proposal in the present instance, because there is no indication that the United States Lines would be able to take over any substantial part of the organizations of the Black Diamond and Cosmopolitan companies, and particularly the organizations abroad, for the probabilities are that both companies would continue in the trades. At best consolidation could only result in an attempt to take the business away from experienced, efficient operators, who have developed it to its approximate maximum, and give it to those who are without especial acquaintance or good will in the particular trades concerned, and who will have to develop a new organization to care for the business, or in losing it to foreign ships.

We believe in the general efficiency and strength of large organizations produced by business evolution or necessity, but if a single, large, strong, and experienced company in the north Atlantic is ultimately necessary and desirable to meet foreign competition, this will come in due course by natural, business processes, and should include other services than only those involved in the present controversy. For the Government to attempt to create this now by one stroke is of doubtful wisdom, for it should only be done by the Government when no other course promising success is open.

If the natural forces bring it about, the Shipping Board has it within its power to approve or disapprove of it, and to regulate it in the public interest.

25. Considering the positions which the Black Diamond Steamship Corporation and the Cosmopolitan Shipping Co. have been able to attain in the face of severe foreign competition, and in view of the fact that these companies already possess the respect, confidence, and good will of the shippers in their respective trades, and have demonstrated their efficiency in operation; and further considering that the United States Government has spent over $12,000,000 during the past 6 years in building up the services with these operators, and in creating a good will which necessarily in large part attaches to the operators, we think that it would not be sound business judgment to cast these companies aside, and substitute for them another organization, which, at the present time, is practically a stranger to the trades. The possible saving in overhead could very easily be offset by a loss in the volume of business. It seems too much like trading horses in midstream without necessity.

26. As we have previously said, we think that it has been sound policy for the Shipping Board to create and build up new shipping concerns. Here are two as efficient shipping organizations as the Board has developed. To put them out of business after 10 years of service, for the purpose of bulding up a

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larger single organization, into whose hands the Shipping Board has not heretofore deemed it advsable to to put the management of two services, would be an abandonment of one of the fundamental principles which have guided the Government's operations. Until there is some more persuasive reason for doing so than has been given us, we think that it should not be done.

27. Messrs. A. V. Moore and E. J. McCormack, managers and substantially owners of the American Scantic Line, who originally bid for the American Diamond Line and afterwards withdrew their bid, have appeared before us and made representations for a consideration of their bid.

The American Scantic Line is operating to Baltic ports and is a highly efficient and financially responsible shipping organization. However, for reasons already stated, we do not see any basis justifying the sale of the American Diamond Lines to Messrs. Moore and McCormack, as against the Black Diamond Steamship Corporation.

Very respectfully yours,

IRA A. CAMPBELL,
H. G. DALTON,
EDWARD N. HURLEY,
GEORGE S. JACKSON,
CLARENCE M. WOOLLEY.

Mr. PAYNE. The United States Lines were then owned by a group headed by Mr. P. W. Chapman. The lines were put for for bid then with the Black Diamond and the Cosmopolitan Shipping Co., or the American Diamond Line, and the America France Line. At that time there was a great struggle as to who would get the lines. The United States Lines was a high bidder under Chapman. We, under section 7 that Senator White just referred to, asked preference under this provision. This is section 7 of the act:

That preference in the sale or assignment of vessels for operation on such steamship lines shall be given to persons who are citizens of the United States who have the support, financial and otherwise, of the domestic communities primarily interested in such lines if the Board is satisfied of the ability of such persons to maintain the service desired and proposed to be maintained, or to persons who are citizens of the United States who then may be maintaining a service from the port of the United States to or in the general direction of the world market port to which the Board has determined that such service should be established.

That is the Merchant Marine Act of 1920. We claim preference under that.

Senator BAILEY. What do you mean by "preference?" These Senators around the table do not know. Let us see what you mean by "preference."

Mr. PAYNE. I will tell you what has been done in the past, what we feel was the correct interpretation.

Senator BAILEY. I would like to know what your view of this "preference" is.

Mr. PAYNE. Beg pardon?

Senator BAILEY. You would make a low bid and be preferred? Is that your idea of preference?

Mr. PAYNE. That would be my idea of the intent, because that was made applicable on a number of occasions.

Senator BAILEY. The legal definition of "preference" would be, in a contract, that if the bids were equal, then preference could be given to the purchaser or the lessee who was at that time operating.

Senator WHITE. Of course, Mr. Chairman, that was put into the 1920 act, to be perfectly frank about it, to take care of the lines that had been established and running out of the southern ports, backed by local southern interests, and it was to make certain that interests

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in Baltimore, Philadelphia, New York and other large centers did not go down there and get away from those local communities the control of the lines which had been established down there. That was the historic purpose of that section 7.

Senator BAILEY. You are appealing to Southern blood.

Senator WHITE. I do not think anyone who is familiar with the history of the thing will question that general statement. There was no misunderstanding or misapprehension about it, and no criticism of it, but when it comes to a proper construction, a legal construction of that language, why, I am out in water that is far over my head, and I think the only construction you can put upon it is that which, in the experience of the shipping boards past and present, have been put upon it. If you go back through the record, there are precedents which perhaps give you the answer, but if you look at the language I think you are lost.

Mr. PAYNE. Senator Bailey, if southern blood appeals to you, I come to you, because I also am from the South.

Senator BAILEY. It does not matter a particle.

Senator WHITE. I do not make that reference in any invidious sense, but I was telling you what the historical background of that section was, because I was on the committee at that time.

Senator OVERTON. The existing law contains the word "preference" without any definition, and the bill before us refers to preference without defining preference.

Mr. PAYNE. I am a little bit confused.

Senator OVERTON. Of course Congress can at any time define preference, if they desire, but the word "preference" is used in other statutes without any particular definition.

Mr. PAYNE. Mr. Chairman, I am a little bit confused as to where I left off. I think it was in reference to this letter that I put in the record. This letter, I may explain, Mr. Chairman, was written to the President of the United States under the date of December 3, 1930, in connection with the call for bids at that time. I have had a copy of it for a number of years but I did not feel free to use it until I found it was a public document. I do find it is a public document, and therefore I hope there is no reason why I could not quote from it. This letter was written by a committee appointed by the President to report on this matter to him, headed by Ira A. Campbell, H. G. Dalton, Edward N. Hurley—who was formerly Chairman of the Shipping Board—George S. Jackson, of Baltimore—I do not know whether you know him——

(Senator RADCLIFFE (interposing). I know him very well, indeed.

Mr. PAYNE. Clarence M. Woolley, who is head of the American Radiator. Since it has been incorporated in the record I will not read the whole thing—it is quite lengthy—but I would like to state that Mr. Campbell is of the firm of Kirlin, Campbell, Hickox, Keating & McGramm, who are representing the United States Lines, I am told, although I am not certain on that point.

In this case the Chapman Line, owner of the United States Lines, were the high bidders for the line and claimed preference under the section 7 that I just read. This letter says:

We have the honor to inform you that, in our opinion, public interest will best be served by the sale of the American Diamond Lines to the Black Diamond

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Steamship Corporation, and America France Line to the Cosmopolitan Shipping Co., and the simultaneous award of adequate mail contracts to those companies. We believe that the services can be efficiently and successfully operated by these companies under private ownership with the assistance of proper mail compensation.

In reaching our conclusions, we have been guided by the principle that public interest can best be served by the successful operation and maintenance of the services at the minimum cost to the Government, and with maximum efficiency in the development of American foreign commerce.

Our conclusions that the public interest would best be served by the sale of the American Diamond Lines to the Black Diamond Steamship Corporation, and the America France Line to the Cosmopolitan Shipping Co., are based upon the following considerations, namely:

1. The Shipping Board has followed the sound policy, in consonance with the views of the framers of the legislation which has made possible the upbuilding of our merchant marine, of placing the various Government services in the hands of different operators. This has resulted in the creation of new shipping concerns, many of them in ports other than New York. The United States has needed and still needs to develop as many substantial and capable organizations and executives in the shipping business as possible. It has been the recognition of this need and the confidence that they would be developed, that has brought to constructive shipping legislation the support of Members of Congress, regardless of party lines, and of commercial and agricultural interests throughout the United States. The same policy should be followed wherever soundly applicable in the sales of the Government services.

10. This development of the trade has resulted in the building up of goodwill. Goodwill not alone attaches to a name, but also to personalities of management. That an unusual goodwill has been created is demonstrated by the large number of strong letters of endorsement from patrons of the line, who speak of the Black Diamond Steamship Corporation and its management in highest terms. We believe that this goodwill attaches to the Black Diamond Steamship Corporation more than to the American Diamond Lines.

The same thing is true in our case.

European tradesmen and dealers cling to relationships in business, and goodwill thus built up cannot be suddenly and successfully transferred to others. It is always a business hazard to drop goodwill.

I will read only a few more.

18. So far as we can ascertain, no criticism has ever been made of the efficiency of the Cosmopolitan Shipping Co.'s management. The Shipping Board has recognized its efficiency by rating the company at its highest classifilation—and that we strove hard to attain and we hope that it is still true—as an operator. If it had not been efficient, undoubtedly the Board would have changed the management long ago, for it could have turned it over to the United States Lines, which was operating to Cherbourg, or to other operators.

It is also contended that the consolidation of the two services with the United States Lines would result in large savings in overhead, and would place the service in the hands of a large company which would be able to withstand the competition of the foreign lines longer than the other two companies, and especially so if and when Government support is withdrawn after the expiration of the mail contracts.

20. As to the influence of purchasing power, it is our belief that this is overrated. Experience has shown that this may cut both ways, and that a shipper is just as likely to demand patronage as vice versa. The same practice can be indulged in by foreign lines, so that, so far as this influence is concerned, shipments are likely to be equitably distributed among carriers regardless of the effects of alleged purchasing power. Furthermore, the great bulk of the cargo transported in these trades is not of a kind consumed in steamship operations.

There are any number that I have marked here, but I simply do not want to bore you too much. I think the letter stands for itself. I think, Mr. Chairman, it is just as true today as it was the day that this letter was written in 1930. These same factors still exist.

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I do not think I have anything more, except to clear up one situation, in connection with our call for bids—our letter explains it—but I would like to bring out one thing. It says:

Substitution of vessels. By the Commission: The Commission may substitute for any of the vessels awarded or chartered, or vessels owned by the operator substituted therefor, presently existing or newly constructed cargo vessels satisfactory to the operator, and upon such substitution all the provisions of the charter party agreement (including provisions with respect to the payment of an operating-differential subsidy) shall be applicable thereto, subject to the provisions of law then in effect—

In other words, we do not know what we are going to have to pay for the vessels, we do not know whether we can operate them efficiently with the payment we would have to make at that time—

Provided, however, that such adjustments of the basic charter hire may then be made (1) as may be necessary to conform to the provisions of law then in effect—

now we do not know what law you gentlemen are going to pass, and I wish I knew you were going to pass this one, but I cannot even guess at that—

and (2) as the Commission may deem fair and equitable. In the event of the failure of the operator to agree to pay such charter hire for any vessel so substituted by the Commission, the charter party agreement shall terminate forthwith and the operator shall forfeit all rights thereunder and also pay to the Commission as liquidated damages a sum equal to 12½ percent of the aggregate amount of any operating-differential subsidy paid thereunder.

I submit for a corporation like ours, that really wants to remain in business, that that is an impossible task, to bid under such terms as that, because we do not know what the prices are going to be.

Senator BARBOUR. I might interject here, Mr. Chairman, with your permission, that the questions that Senator Bailey addressed to the witness were answered in detail in that letter which was submitted for the record early in the hearing. Whether it was a mistake to just submit it, whether it should have been read instead of submitting it, is a question, but I just wanted Senator Bailey to know that that subject had been covered by this letter here in detail at the time the operators wrote to the Maritime Commission as to why they could not bid under those circumstances.

Senator BAILEY. We enacted our Maritime legislation 8 years subsequent to that letter. That letter was a matter of public record, I take it.

Mr. PAYNE. This letter was submitted only on the 20th, I think it was the 20th—on the 17th.

Senator OVERTON. He is referring to his recent letter.

Senator GUFFEY. What date was this letter written?

Mr. PAYNE. Which letter are you speaking of?

Senator GUFFEY. The one you have there, that Senator Barbour referred to.

Senator BARBOUR. February 17, 1939. The reasons are fully stated in the letter, Senator Bailey, as to why, under all the circumstances they cited, they could not bid.

Senator WHITE. May I ask whether this provision which you have read, under the general heading of "Information and Instruction to Bidders", is something peculiar to this particular request for bids, or has that same provision been carried in all other cases?

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Mr. PAYNE. I think it has been carried in all other cases, sir, if my understanding is correct.

Senator BAILEY. I do not want to take up too much time. You are very kind, but if you prefer I would be very glad to read it. Let me see if I can clear it up in my mind. I would like to ask you some questions, to get the picture before me.

Mr. PAYNE. I will do my best to answer, sir.

Senator BAILEY. Now let me call your attention to this language: "In the case of any line being operated by the Commission on February 1, 1939, preference in the operation, sale, or charter thereof shall be given to the agent operating such line for the account of the Commission on such date." That is the language of the amendment proposed. The effcet of that language, that I have read, would be to require the Commission to give preference "in the operation, sale, or charter" to whoever was operating certain ships on February 1, 1939.

Mr. PAYNE. Yes, sir.

Senator BAILEY. All right. Now who was operating the line? I want to get that.

Mr. PAYNE. Well, in the case of the America France Line the Cosmopolitan Shipping Co.; in the case of the Oriole Line and the American Hampton Roads-Yankee Line the Southgate Nelson Corporation, and in the case of the American Pioneer Line, the Roosevelt Steamship Corporation are operating.

Senator BAILEY. This legislation, so far, is special legislation for the benefit of four lines which were operating certain ships on February 1, 1939. That is what you have in contemplation, is that right? Is not that what this law contemplates? Does it not give those four lines special consideration?

Mr. PAYNE. I do not think so, sir; no.

Senator BAILEY. Now does it not give them a preference?

Mr. PAYNE. It has given them a preference in the past, sir.

Senator BAILEY. Now it gives them a preference there as to operation. Now coming down and reading a little further:

> Before advertising any such line for sale or charter, and notwithstanding any advertisement prior to February 1, 1939, for such sale or charter, the Commission shall negotiate with the agent who on such date was operating such line for the account of the Commission.

Were there any agents operating on that date?

Mr. PAYNE. Yes, sir.

Senator BAILEY. Who were they?

Mr. PAYNE. The same I mentioned before.

Senator BAILEY. So again here is a preference for those four companies operating these particular ships, and this is special legislation for the purpose of providing not only that they shall have the preference in operation, sale, or charter, but having gotten that then they shall have preference by way of negotiation with themselves as agents. That is the language.

Mr. PAYNE. The Congress evidently felt that that was the proper thing for the interests of the American merchant marine, I assume.

Senator BAILEY. I am reading from your act.

Mr. PAYNE. It is not my act; it is Mr. Barbour's act.

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Senator BAILEY. I beg your pardon. It is the legislation proposed before us that you advocate. That is what I meant when I said it is your act.

Mr. PAYNE. I understand.

Senator BAILEY. That is two preferences. Now we come down again.

The Commission, pursuant to such negotiation, may enter into an agreement or agreements for such sale or charter upon such terms and conditions as will give preference to the operator who was operating such line on February 1, 1939, insofar as it may be possible to do so consistent with the purposes and policy of this act and with carrying into effect the requirements of said section 809 of this act.

Now, that is your third preference, and in this particular legislalation, related directly to the date February 1, 1939, it is special for those four companies.

Provided, That if any such line shall be disposed of by negotiation, a full report thereof with reasons therefor shall be made to Congress at the earliest opportunity.

Is not that the size of the matter now? Is it not the purpose of this legislation to relate it directly to a certain date, February 1, 1939, and to four companies which were either agents or operating ships on that date?

Mr. PAYNE. Well, sir; I can only answer that by the report that the Congress made in submitting the bill, in which they said the following:

The granting of additional preferences is not involved here, but the bill perfects the machinery by which already existing preferences, repeatedly declared in the laws of Congress enacted in the past 15 years, may be carried into effect if in the best interests of the United States.

"If in the best interests of the United States." Now I am repeating what they say, sir.

Senator BAILEY. Does not this relate to ships that had been advertised or were being advertised on February 1, 1939?

Mr. PAYNE. Yes, sir; but it also relates to ships that had been advertised since 1929. We nearly put ourselves in the lunatic asylum trying to acquire the line. It is not much fun. I personally feel that the service can be made a success, it is a success if it is properly awarded, and the only thing I want to do is to sit down with the Maritime Commission and work this out. They haven't the right to do it today, but this act would give them the right to sit down and listen to our troubles, our problems, and our worries, to work it out in their best interests and in the interests of the operator, to perpetuate this line. That is the main thing. Lines have been sold in the past.

Senator BAILEY. Were these ships advertised prior to February 1, 1939?

Mr. PAYNE. Yes, sir; several times.

Senator BAILEY. I want to get the sequence clear here.

Mr. PAYNE. My letter covers that. I think I best read that letter.

Senator BAILEY. Are 28 of these ships involved?

Mr. PAYNE. I do not know about the 28, sir. I am only interested in my own service.

Senator BAILEY. How many ships is your own service interested in?

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Mr. PAYNE. I think 8 ships in 1937 and 10 ships in 1929.

Senator BAILEY. That is 18 ships?

Mr. PAYNE. No; that would be ten at one time and eight the second time.

Senator BAILEY. The sum total being 10 of your company ships?

Mr. PAYNE. Yes, sir. I am speaking only of our company.

Senator BAILEY. Were you the owner or agent of those ships?

Mr. PAYNE. We were the agents; yes, sir.

Senator BAILEY. You were the agents under the Federal Government?

Mr. PAYNE. Yes, sir.

Senator BAILEY. Now, they were advertised?

Mr. PAYNE. Yes, sir.

Senator BAILEY. Did you bid?

Mr. PAYNE. Yes, sir.

Senator BAILEY. Was your bid turned down?

Mr. PAYNE. Yes, sir.

Senator BAILEY. Somebody else overbid?

Mr. PAYNE. No, sir.

Senator BAILEY. Why was your bid turned down?

Mr. PAYNE. I would rather have you ask the Maritime Commission, because so far as I know we have never gotten a statement as to why the 1937 bid was turned down.

Senator BAILEY. Then would the consequences of this legislation be to enable you now to have these negotiations with a view to recover those ships for the purpose of charter or operation?

Mr. PAYNE. Yes, sir.

Senator BAILEY. And against whom? The Maritime Commission?

Mr. PAYNE. No; it would be with the Maritime Commission, sir.

Senator BAILEY. Are they in possession now?

Mr. PAYNE. Yes.

Senator BAILEY. That is what I mean by "against." I mean adverse to them in possession.

Mr. PAYNE. That is correct.

Senator BAILEY. Are they operating now?

Mr. PAYNE. We are operating for their account, as agent for the Maritime Commission.

Senator BARBOUR. Senator Bailey, may I interject something very briefly? The O'Leary bill was introduced on January 12, 1939, and the Maritime Commission had not called for bids at that time.

Senator BAILEY. What date was that?

Senator BARBOUR. They called it up January 12, 1939, the O'Leary bill, H. R. 2382, was introduced on January 12, 1939. At that time the Maritime Commission had not requested bids. They did request bids about 4 or 5 days after the introduction of that legislation.

Senator BAILEY. Has the period of that bidding passed, or is that recent?

Senator BARBOUR. I was just coming to that, Senator.

Senator BAILEY. All right.

Senator BARBOUR. The practical situation involved in this is that at least three times the Maritime Commission have requested bids and at least three times have awarded no bids. In other words, the experience heretofore is that under this practice nothing really results. As the witness has just stated, he made a bid, a single

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bid, and in that instance no award was made to him. This legislation is an honest effort, as I see it, to present a businesslike method of doing the thing that I think we all want to do, and that is for the Maritime Commission to get rid, so to speak, of these vessels, and all that it asks is that those that have operated the lines and have built up the business—true, with the Government's financial support—be given now an opportunity to try to work out with the Commission the very thing that has not worked out before, and, in my judgment, will not work out now. I have heard, at the other meeting of the committee in this same matter, that the Maritime Commission had a bid which came in in this interim, but I do not think the Maritime Commission will tell you this morning that they are going to accept that bid or that they know what they are going to do.

Senator BAILEY. Of course, Senator, I am not questioning in the slightest degree the honesty of this proposed legislation.

Senator BARBOUR. I know that.

Senator BAILEY. What I am getting at, here is a bid of a bidder that has been rejected by the Maritime Commission and notwithstanding that, he is advocating legislation which would give him a preference. Now the burden there, it appears to me, is for him to show why he should have the preference, and then it would be for the Maritime Commission to inform us frankly why they turned down the bid. The bid is made, it is rejected, and he comes in and demands, by law, the right of negotiation privately. That is what the consequence is of this proposed legislation.

Senator BARBOUR. That is very true.

Senator BAILEY. That puts a very heavy burden on the witness, the proponents of this legislation. He asks for a preference now not only by way of bidding but preference by way of negotiation, and that notwithstanding he has been turned down as a bidder. That is the size of it, as I see it, and it puzzles me, because I have not yet heard an adequate reason as to why we should change the entire policy of the Government, not only in regard to the Maritime Commission but in regard to the whole United States. All public property must be sold to the highest bidder. Any other course is a dangerous course.

Senator WHITE. May I interrupt there, Senator Bailey, just to say a word? It strikes me that this question of granting a preference, as is proposed in this bill, is no very substantial change from the intent of the law for at least the last 19 years. That provision as to preference was written into the 1920 act, and it has been carried along ever since.

Senator BAILEY. Let me ask you: preference also as to negotiation?

Senator WHITE. I was getting to that. It has been carried along ever since. It has been copied by reference right in the 1936 act, that this pending bill proposes to change. The substantial change in law which is here proposed, as I understand it, is to confer the direct and the clear right of negotiation and of sale through negotiation. I am not entirely clear that that is a very wide departure from the provisions of the 1920 act, because that 1920 act gave the right to sell at private bid, after advertisement and appraisement. It required advertisement and appraisement, but it did not then require

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a public competitive bidding. The act permitted the property to be sold at private competitive bidding. Now I do not know just what private competitive bidding is, but certainly it is something different than public competitive bidding. So that this new right which is here proposed, and I think the only new thing in the bill, that is, giving the right of sale by negotiation, is not a tremendous departure from the authority written into the law for 20 years or thereabouts.

As I see it, it is a question of policy which I think we all must recognize, whether we shall insist, as a matter of governmental policy, upon public bids and sales based upon public competition, or whether we shall permit that the 1920 act provided, private sales following appraisement and advertising, or whether we shall take this further step which is here proposed and permit sale through negotiation. That, it seems to me, is the only question involved here.

Senator BAILEY. Senator, is not there a distinction between this legislation which is here proposed and the old act? The old act had private competitive bidding. We understand what that is. The bidders submit their bids to the Boards privately, but we can check the Board. This act now proposes that there shall be negotiation by way of preference.

Senator WHITE. That is true, by way of exchange. The matter of preference is not important at all.

Senator BAILEY. It is negotiation by way of preference with a private concern, and in the discretion of the Commission.

Senator WHITE. Yes.

Senator BAILEY. Now are we ready to go that far?

Senator WHITE. As I say, the reference to preference does not seem to me to inject anything new into the law at all. I think that thought runs through the legislation, and has run through it for 20 years. That is what I mean.

Senator RADCLIFFE. Senator, I think you stated a little while ago you did not know what it meant.

Senator WHITE. I did not.

Senator RADCLIFFE. Do you think it would still be ambiguous under this law?

Senator WHITE. I do not think you can use that word, or that phrase, that you shall give a preference and stop there and have a very definite understanding as to what is meant by it, but it is not any more ambiguous than the law has been for 20 years in that regard. The fundamental change that is being proposed here, as I get it from a cursory reading of this thing, is whether you are going to require bidding, public or private, or whether you are going to give the additional right to negotiate with an operator with respect to the ships which he is operating. That really is what is involved here now.

Senator BAILEY. Do you agree with me that if we should adopt this legislation it would put an end to public bidding altogether?

Senator WHITE. Do not ask me to answer that question until I have heard the rest of the witnesses.

Senator BAILEY. Is not that the effect of it? You would put an end to public bidding. You practically arrange it so that the Commission must go into the private negotiation with one particular line, and the only check on that is that it is reported to Congress, and,

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of course, the Congress would never know what it is for, would never be able to pass upon it.

Senator WHITE. I think it is true that, where there is an operator of the line and the Shipping Board desires to move out of public ownership into private ownership, you do have something in the nature of secrecy surrounding the whole thing and we know about it only when it is consummated. Of course, there are a great many situations, I take it, where negotiation is out of the question, because there is not an operator who may want the line at the price, and in many instances you may have to resort to public advertisement and public call for bids.

Senator BAILEY. I believe I agree with you that where there are no private operators who desire preference you would have to sell it to the highest bidder, but under this act, this proposed legislation, so long as there was any man who had gotten into the position of an operator or agent, who insisted upon private negotiation and preference in that private negotiation, he would have a decided advantage. Of course I, as an outsider, I would not go in to bid on it. I would be thrown right out, because I would be faced with the preference right in the law.

Senator WHITE. I think this ought to be observed, and I think I am right on this, although I have just given this a once-over, there is no requirement here that there shall be a consummation of negotiations and a sale as the result of the negotiations. The negotiations may break down entirely. The Board may refuse or may fail to reach an agreement with the operating company and may say that negotiations are off and they will not sell to them. That right, I think, still exists in the Board. I do not want what I have said to indicate that I have come to a conclusion on this.

Senator OVERTON. Just one moment. I think we may approach this whole question with this thought in mind: It is the salutary rule, that experience has justified, that all property owned by any government, State, Federal, or local, should be disposed of under competitive bids. The position of the proponents is, however, that there ought to be an exception in this particular case, for the following reasons—now let me give them as I understand them: Congress directed the old Shipping Board, I think, and the present Maritime Commission to go ahead and get rid of these vessels, to dispose of them under competitive bids. They have made a number of attempts to do so and have not been successful in getting rid of them. They are still Government-owned and they are still Government-operated, and, I think, they are being operated at a loss. Now the shipping operators or agents submitted bids in response to invitations and those bids were rejected for reasons satisfactory to the Maritime Commission and no sale or charter of the vessels was made to the Government agents, and the Maritime Commission advertised again and only one bid has been received. Whether it was a satisfactory bid or not I do not know.

Senator BAILEY. Who made that bid, Senator?

Senator OVERTON. The United States Lines.

Senator BAILEY. They have bid?

Senator OVERTON. The United States Lines. That is my information. Let me finish the short statement I want to make with a view of undertaking to clarify the issue.

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Now, then, these agents who have been operating these vessels for a score of years state that it is in the interest of the Government that they should continue to operate them, because they have built up an efficient and economic organization. Now they have their trade, they have their contacts both in foreign and domestic ports, and they state that they can operate them probably much more in the interests of the United States than could someone else.

Then another objection that they raise to competitive bidding is that some big steamship line company might buy these vessels and absorb them and create a monopoly, and the position taken by them is that, in view of all of these facts, there ought to be an exception to the well-recognized principle that Government property ought to be disposed of only at competitive or public bidding. I think I have correctly stated the issue. I may not have given all the points.

Senator RADCLIFFE. Mr. Chairman, I think the discussion is very interesting, but are not we a little premature? Is it not possible there may be statements or testimony covering the facts that you have in mind? I was wondering if it would not be a little more helpful to get the testimony before us before we attempt to try to argue it.

Senator OVERTON. I am not arguing it; I am simply stating the issue. I am neither in favor or against the bill.

Senator RADCLIFFE. Would it not be more helpful, before we frame the issue, if we heard from the Commission and the proponents?

Mr. PAYNE. I only have a few things more, Senator, If I can get it off my chest I will appreciate it.

Senator OVERTON. All right.

Mr. PAYNE. The statement you made brought up two things to me that I wanted to clear up; that is, the expenditure by the Government since 1919 or 1920 to make us into what has been termed by others as an efficient organization, and it seems to me it gives us only one of two alternatives today, either those men that have been conducting the company will have to be disbanded, or we will have to seek other employment elsewhere.

You mentioned the word "monopoly," sir. It is a bad word, it is a harsh word, but it does really mean just that in this case, because if we should not be the operators of this line there are no other American lines to be offered for charter or sale that we have an intimate knowledge of, and that our organization would have a decided advantage in, and therefore it forces us into a most unfortunate position of either disbanding an organization that has worked together from 1920 on because the last man with us, except the office boys, have been with us since 1920, and many since the inception of the company in 1915. Now we started into this thing——

Senator OVERTON (interposing). May I interrupt just a moment and ask you a question?

Mr. PAYNE. Yes.

Senator OVERTON. The fact you have established this good will, have gotten together this experienced organization, made all these contacts, are not you in a better position because of that to make a more advantageous bid than any other competitor?

Mr. PAYNE. Well, we are, if there are certain other factors. That is the reason we want to sit down with the Maritime Commission to discuss it. It is too long a discussion to go into it with you, it would

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take up too much of your time. There are certain fundamental principles and facts which must be taken into consideration.

Senator OVERTON. The point I make is that you already enjoy a preference by reason of the fact that the Government has maintained your organization for quite a number of years.

Mr. PAYNE. Yes, sir.

Senator OVERTON. And by reason of that fact you have built up this good will.

Mr. PAYNE. That is right.

Senator OVERTON. And you are in a position to bid a higher price than some competitor.

Mr. PAYNE. Except that some large competitor might, in order to get rid of what they might term a nuisance, some large competitor might bid. They might put a nuisance value on it. That I do not think is in the interests of the Government either, because we have seen too or three of our very largest companies, steamship companies, go by the board within the last few years. I do not think it is going to help us to see too many large companies going in that fashion, because that is going to be awfully difficult. If you tried to talk to bankers today, ask them what they think of shipping, they throw up their hands in holy horror and say they are not interested. We want to build up a merchant marine, if we want it privately owned.

I do not think there is anything more for me to say, sir, except I am at your disposal for any questions. I would also like to say I am much interested in seeking the passage of this bill.

Senator OVERTON. Let me ask you one question for information. If these ships are 20 years old, how much longer can they be operated in service? How much longer will they have a commercial value?

Mr. PAYNE. I think the Congress put a 20-year life on it to the extent that no aid, except under special conditions, be given to a vessel that is over 20 years of age. The competitive value of many of these vessels was absolete when they got off the ways, because they were competitively not of the speed of your foreign competition, but my own personal belief is that the ships, properly managed and properly maintained, have a useful life of 4 or 5 years longer. It is going to be very expensive to operate, very expensive to maintain them.

Seator OVERTON. What I had in mind, the longer we deferred disposition of the vessels by the Government, the less value they will have, and will probably get down to where nobody will want them.

Mr. PAYNE. The Maritime Commission has a provision to supplement these by new ships. That was one of the stumbling blocks with any possession, we could not see how we could pay 5 percent of the American cost.

Senator OVERTON. You were called upon to buy a pig in a sack.

Mr. PAYNE. That is what we were worried about. We did not want anything that we could not maintain.

Senator BAILEY. What is the capital of your company?

Mr. PAYNE. About $400,000.

Senator BAILEY. How much of that is liquid?

Mr. PAYNE. It is all liquid.

Senator BAILEY. You have $400,000 of liquid capital?

Mr. PAYNE. Yes.

Senator BAILEY. You do not have any ships of your owns, then?

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Mr. PAYNE. No, sir; we own no ships.

Senator BAILEY. That is a small capital, $400,000.

Mr. PAYNE. That is right.

Senator BAILEY. Where do your liners run?

Mr. PAYNE. We run from Baltimore, Hampton Roads, Philadelphia, Boston, and New York to Havre, Bordeaux, St. Nazaire, and Dunkirk.

Senator BAILEY. What is your net income?

Mr. PAYNE. We have no net income because we are operating on a temporary operating subsidy, a temporary operating agreement that simply pays our overhead and the operating costs of the ships. We have not made any money in shipping for an awfully long time.

Senator BAILEY. You have made no money at all?

Mr. PAYNE. Not last year, no.

Senator OVERTON. You are simply employed as agent of the Government?

Mr. PAYNE. That is right.

Senator OVERTON. On a salary?

Mr. PAYNE. That is right.

Senator OVERTON. The cost of operation paid by the Government?

Mr. PAYNE. That is correct.

Senator OVERTON. And the revenues from the operation of the vessel go to the Maritime Commission and the Federal Government?

Mr. PAYNE. The expenses are paid by them direct.

Senator BAILEY. You have no means whatever now of getting more that $400,000?

Mr. PAYNE. No.

Senator BAILEY. Is there anything in this set-up that would give you more?

Mr. PAYNE. As it is set up now, no, sir; but we have only taken that on as a temporary measure. We have an organization to protect. At least, we thought we had one to protect.

Senator BAILEY. Is it your purpose to buy or charter?

Mr. PAYNE. I think, with these ships of 20 years of age today, we think the proper basis would be to charter and probably charter the new ships as they come out, if the proposal then is considered a reasonable business venture.

Senator BAILEY. Your $400,000 capital is just for the purpose of guaranteeing the payment of the charter money?

Mr. PAYNE. That is not exactly accurate. We made a lot of money back many years ago, and this is what is left of what we originally started up with.

Senator BAILEY. What did you start with?

Mr. PAYNE. With $1,000,000, sir.

Senator BAILEY. And you got down to $400,000?

Mr. PAYNE. Yes.

Senator BAILEY. You suffered that much loss?

Mr. PAYNE. That was paid out in operating losses or operating expenses.

Senator BAILEY. Is the prospect of war tending to increase the market value of ships?

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Mr. PAYNE. I would say decidedly; yes. We went through the last trouble and our company were very substantial charterers at that time and paid as high as $80,000 a month for British ships that we had under charter. That is per month.

Senator BAILEY. If you chartered ships, how long would you charter them for?

Mr. PAYNE. The requirement under the call for bids was 3 years.

Senator BAILEY. Do you have the right to recharter if you take it?

Mr. PAYNE. I do not know, sir. I do not think that is part of the call for bids, but I would like, if we argue the matter, to have the option of rechartering for a specific period.

Senator BAILEY. You mean you have the right to subcharter or lease if you lease it from the Government?

Mr. PAYNE. I do not know, sir. I do not think it gives you that right. All of that is subject to the approval of the Maritime Commission.

Senator BAILEY. You think what you have with the approval of the Maritime Commission, when you get a charter for 2 years, you would have the right to charter to somebody else?

Mr. PAYNE. We have never given that a thought, Senator Bailey. It is not our idea to charter the ships and to recharter them; it is our idea to stay in business with American ships. That is our whole purpose.

Senator BAILEY. I get your point of view. You are not going to stay in business very long with a $1,000,000 capital reduced to $400,000. There ought to be some prospect, if you go into that hole.

Mr. PAYNE. I do not call it a hole, if you have got a corporation of that character today.

Senator BAILEY. Do you hope to make money?

Mr. PAYNE. I would not be over here if I did not hope to make money.

Senator BAILEY. You did not think you would lose your large capital?

Mr. PAYNE. If I did not think I was going to make money, I would not go into it.

Senator BAILEY. What are the salaries?

Mr. PAYNE. I happen to be the unfortunate top salary, and I receive $12,000. I do not think I could buy many things with that; I do not think I could buy much with that. However, I am perfectly content.

Senator, if there are any other questions I would be glad to answer them.

Senator OVERTON. Are there any other questions?

Senator BAILEY. I would like to know the volume of your business, the receipts and disbursements.

Mr. PAYNE. Well, sir, I would be glad to give it to you. I go back a long time. I want to read you some of the long ones and I want to tell you why some of the short periods of years.

Senator OVERTON. Is that the salaries paid by the Government?

Mr. PAYNE. No, I mean the business, the total results.

Senator BAILEY. I want to see what he is doing.

Mr. PAYNE. It goes back to 1926. As long as we have got them here I would like to include them all.

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Senator BAILEY. That is all right. You can make any showing you please. I wanted to get something rather recent.

Mr. PAYNE. This will not take long. I am not going to read every figure here.

Senator OVERTON. Are you going to give us the statement with reference to Government operation with you as agent?

Mr. PAYNE. Yes sir. This gives you the volume of the business. In 1926 the total volume of business was 434,000 tons and it amounted to $2,200,000.

Senator BAILEY. That is the value of the tonnage?

Mr. PAYNE. That was the value received for carrying it. The volume in 1927 was 505,000 tons and $2,600,000 in revenue. In 1928 it was 450,000 tons and $2,200,000. In 1929 it was 490,000 tons and $3,015,000. I am leaving off the odd dollars. In 1930 it was 355,000 tons and $2,100,000. In 1931 it was 410,000 tons and $1,900,000. In 1932, which was the beginning of the crisis in France, I mean the economic crisis there, 297,000 tons and $1,202,000. In 1933 it was 208,000 tons and $888,000.

I am sorry to tell you, Senator, but at that time we had the ships under what was known as a lump-sum charter, and under that lump-sum charter we paid the losses and profits, and, by George, it was sickening.

In 1934 it was 197,000 tons and $946,000. In 1935 it was 209,000 tons and $949,000. In 1936 it was 167,000 tons and $815,000. In 1937 it was 232,000 tons and $1,500,000. In 1938 it was 149,000 tons and $1,200,000.

Senator BAILEY. You varied a good deal in the last two or three years.

Mr. PAYNE. I will tell you why that is, sir. I am glad you asked the question, or made the statement. In 1932 Mr. Chapman, who operated the United States Lines, lost the operation to the present operators, the I. M. M. Co. Before that the United States Lines were operating to Cherbourg, that was their port of call, and then on to Germany, for their call at Germany for cargo, passengers, and mail, and the reasons that the Postmaster General gave at that time, which I am not giving as my reasons but I am giving as his reasons in his report, which I would like very much to read——

Senator BAILEY (interposing). That is Mr. Brown?

Mr. PAYNE. No; that was Mr. Farley.

"The United States Lines had had cargo competition at Havre in 1932 under a slightly different set of facts."

This is our quotation. I will quote the other a little later.

The United States Lines were then owned by P. W. Chapman Co., and all her vessels called at Cherbourg, France, and when the United States Lines were taken over by the International Mercantile Marine Co. Havre was not then a port of call, but the International Co. was managing the British White Star Line which called at Cherbourg with passengers and mail, and the International Mercantile Marine immediately called on the Post Office Department for permission to change the port of call of United States Lines from Cherbourg to Havre. This eliminated competition at Cherbourg between the two lines which were then under their control, namely, the White Star Line and the United States Lines. A further discussion of the facts pertinent to this matter may be found on page 274 of the report of Postmaster General Farley on an investigation of air and ocean mail contracts, which we quote as follows:

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Now, this is Mr. Farley's report:

After submitting the contract on Routes 43 and 44, the subcontractor International Mercantile Marine from time to time applied to the Post Office Department for various favors, and in all instances except one the application was promptly granted. These factors included the acceptance and classification of the *Leviathan* as a contract ship for certain of its voyages when mail carried on a contingent basis would not equal the contract rate (which voyages were required under the purchase contract of the Shipping Board), and the restating of the port of call on Route 43 so as to proceed to a call at Havre in lieu of a call at Cherbourg. The evidence indicates that this later change was destined to eliminate competition between the vessels on Route 43 with the White Star Line, with those of the White Star Line (British) for which the latter company, the International Mercantile Marine then acted as general agent in the United States.

Now they started calls at Havre, which reduced, therefore, by some measure, the cargo we carried at that time.

Senator BAILEY. Has that gone on since 1932?

Mr. PAYNE. This has gone on since 1932 up to the present.

Senator BAILEY. What I was driving at was the variation between 1936, 1937, and 1938.

Mr. PAYNE. Well, you had a crisis in France at that time, a very serious financial crisis. They established at that time what was known as the qouta system, beyond which you could not import. For example, grain and other commodities of that character were absolutely prohibited from reaching France, and a lot of our other agricultural products were stopped. I can give you one example. I was over there and they had placed a quota on electrical equipment, and I went to the proper authorities of the Government to see just what we could do, and they informed us that nothing could be done to exceed that quota. The result was that they had given a larger percentage, for example, to such countries as Holland, than they gave to the United States.

Senator BAILEY. Now give me the tonnage over again for 1936, 1937, and 1938.

Mr. PAYNE. Yes, sir. You want only the tonnage?

Senator BAILEY. Yes.

Mr. PAYNE. For 1936 it was 167,000 tons; for 1937 it was 232,000 tons; and for 1938 it was 149,000 tons.

Senator BAILEY. Well, you went from 136,000 to 149,000, to 232,000, and then you dropped back in 1938. That is what interested me, was that great variation in the last 3 years. You dropped back again in 1938 to where you were in 1936, after a rise in 1937.

Mr. PAYNE. In 1936 the revenue was $800,000 and in 1938, with less cargo, it was $1,258,000. We got a higher class cargo at that time.

Senator BAILEY. Better classification?

Mr. PAYNE. Yes.

Senator BAILEY. What subsidy did you get?

Mr. PAYNE. We had no subsidy, because the Government paid the operating expenses at that time.

Senator BAILEY. That was the subsidy?

Mr. PAYNE. Yes; that was the subsidy. It could not be continually called a loss, as it has been referred to.

Senator BAILEY. Can you give me the statement of 1935, 1936, and 1937, the sum received from the United States Government on account of operating expenses?

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Mr. PAYNE. I haven't those figures here; no. The Maritime Commission probably have all those details.

Senator BAILEY. I think that will throw some light on the situation.

Senator WHITE. What have been the results with the Government during 1936, 1937, and 1938?

Mr. PAYNE. I have those, sir.

Senator WHITE. I asked what they were.

Mr. PAYNE. The testimony was all given in the House hearing. You asked for 1936, did you, sir?

Senator WHITE. 1936, 1937, and 1938, just for the 3 years.

Mr. PAYNE. This is for the year. I think these are correct, if you include overhead. For the year 1936 it would be—I suppose the Maritime Commission would have it in more detail. I did not know that those questions would be asked so I did not bring the detailed figures down, but I think these are correct—in 1936, 5,628 average voyage losses, which does not allow for any subsidy at all. The overhead is not in here, and the overhead would run at that time about $2,600 to $2,700 additional per voyage. That is for the shore overhead.

Senator WHITE. How much?

Mr. PAYNE. About $2,600. That would be roughly for that year about $8,000.

Senator WHITE. A voyage?

Mr. PAYNE. A voyage.

Senator BAILEY. Am I correct in the conclusion, after going on here as an operator or agent and with the Federal Government paying your operating expenses, you have been so unfortunate as to impair your capital by $600,000? Is that the sum of it?

Mr. PAYNE. That is not exactly the sum of it; no, sir. I can give you all the facts, but I cannot give them to you out of my head.

Senator BAILEY. I will review it with you. You started with $1,000,000.

Mr. PAYNE. We changed our company in 1920.

Senator BAILEY. You did not disburse any money?

Mr. PAYNE. Well, at that time we did. We sold our company to a company at that time called the Green Star Steamship Co. They had ships and no organization, and we had the organization and no ships. We bought it at that time, thinking it was a wonderful combination. We at that time did not feel the ships were worth the price that the Green Star paid for them, therefore we were glad to submit our organization for the good of operation of American ships and to perpetuate the company. That did not work out very well because the Green Star Corporation went into receivership within about a year after we went in there.

Senator BAILEY. Is that what impaired your capital?

Mr. PAYNE. Partially; yes, sir. I could not tell you offhand. I can give you those facts, though.

Senator BAILEY. It is a fact that your capital has been impaired by way of a reduction 60 percent?

Mr. PAYNE. That is correct. There were some losses we had to take in in investments.

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Senator OVERTON. It was testified before the House committee that the average loss of the America France Line during the last 8½ years has been approximately $487,800 per year.

Mr. PAYNE. That is right, sir. I think those are the figures that were submitted. I do not know.

Senator OVERTON. Now then, if the Government was to sell these ships and pay operating subsidies, have you any idea what those operating subsidies would amount to?

Mr. PAYNE. Yes, sir; I have.

Senator OVERTON. Would they be in excess of or below $487,800 a year?

Mr. PAYNE. I tihnk they would be approximately that figure, provided that the so-called countervailing subsidy would allow us, under the interpretation of the law—you see that was another reason we found it very difficult to bid, because the call for bids did not specify the countervailing subsidy. In the call for bids they, under the act, interpreted the law to say that they could not pay more than the difference between the foreign cost and our cost, but here is a strange thing to us: in those calls for bids, for example, they allowed us for wages 34 percent, because we were competing with French wages, and they allowed the Hampton Roads Yankee Line 52.2 percent. They allowed us a subsistence for our officers and crew 32 percent and they allowed the Hampton Roads Yankee Line 45 percent.

Senator BAILEY. Who made that allowance?

Mr. PAYNE. The Maritime Commission, sir.

Senator BAILEY. That was since this Commission was created?

Mr. PAYNE. Yes, sir. This was sent to us after the bids were sent out. I think these were sent out on February 3 and the bids, I think, came out on January 16.

Maintenance, meaning expandable equipment and maintenance thereof, stores, and so forth, they allowed us 22 percent and allowed the Hampton Roads-Yankee Line 43.9 percent. In repairs, and that is a very large item with us, 20 percent in our case and 50.62 percent in the case of the Hampton Roads-Yankee Line. The P. & I. insurance, 33.3 percent for the America France Line and 45.567 to the Hampton Roads-Yankee Line. On the hull, in which this is a very important item, they allowed us 10 percent and the Hampton Roads-Yankee Line 44.9 percent.

Now, I do not quarrel with the figures, because I think they are accurate, but I would like to put in right there, sir, the reasons that our figures are more like the French-flag figures is because the French flag are about the highest foreign national flag that we have to compete with. But the French Government, recognizing that fact, have allowed a subsidy to the French Lines, and a very substantial subsidy in the case of the French Line, our principal foreign-flag competitor, they have allowed something in the neighborhood of $7,000,000 at today's rate of exchange. It varies with the exchange. Therefore we feel, in order to put us on all fours, as was the intent of the act, that they should allow us this countervailing subsidy. That is one of the reasons we wanted to sit around the table and

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discuss it. That is the reason, in these bids, we could not find ourselves in the position to bid.

Senator OVERTON. If the Government would continue to operate these ships through operating agents, what I wanted to know is whether it would be more out-of-pocket or less out-of-pocket than if it disposes of these ships and pays a subsidy?

Mr. PAYNE. I would say—this is a rough guess, I would have to have the figures—but I should say it would be less out-of-pocket.

Senator OVERTON. By disposing of them and paying the subsidy?

Mr. PAYNE. I think that has been true in the past.

Senator OVERTON. Would it be a material difference?

Mr. PAYNE. I would not say it would be a material difference, no sir; because we are today operating these ships as cheaply as we know how. I have compared our operating costs with the operating costs of the privately owned lines, and I think they compare very favorably.

There is another thing in discussing this, and that is the question of what we will have to pay for fuel oil. That is one of the most expensive items.

Senator BAILEY. I gather you wanted this bill passed so you could sit around the table and negotiate not only the rate you would pay but the allowance they make you?

Mr. PAYNE. That is exactly the question, sir.

Senator BAILEY. You do not want to bid at all unless you can get a better situation than you now have?

Mr. PAYNE. That is exactly the reason we did not bid. You have gotten exactly to the point, sir, in a few words, that I have taken 2 hours to explain to you.

Senator BARBOUR. Senator Bailey, it does not mean the Maritime Commission is bound to accept anything on the basis of those negotiations.

Senator BAILEY. It means they have got to reject something or to accept something. That is the point. Suppose the Maritime Commission can do without lifting these rates by dealing with somebody else that is absolutely responsible, then why should they deal with him?

Mr. PAYNE. I will tell you why, because we have been in the business for a great many years. It seems unfair to kick an organization that is fair and honest, that has helped to build up this line, without an opportunity to get something that they have been trying to get for a number of years.

Senator BAILEY. These fellows that run for the Senate, who have been in the Senate for 6 years, make the same argument and still sometimes get kicked out.

Mr. PAYNE. That is why I think you ought to have some sympathy with me.

Senator OVERTON. What are the wishes of the members of the subcommittee? Shall we continue? It is now 12:20. Shall we meet again this afternoon?

If there is no objection we might proceed with Mr. Taylor until 1 o'clock. Mr. Taylor, will you come around and take the stand? Give to the reporter your initials and what company you represent.

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STATEMENT OF W. F. TAYLOR, SOUTHGATE-NELSON CORPORATION, NORFOLK, VA.

Mr. TAYLOR. My name is W. F. Taylor, president of the Southgate-Nelson Corporation with home offices at Norfolk, Va.

Our company has the present honor, rather precariously held at the moment, of operating for the Government the Oriole Lines and American Hampton Roads Lines which ply between the ports of Hampton Roads, Baltimore, Philadelphia, Boston, and Portland, Maine, to Hamburg, Bremen, and ports in the United Kingdom and Ireland. Our company also has the honor, precariously held, of being the only Virginia corporation engaged in overseas shipping. In order to make a full confession, even at the risk of prejudice, I might as well admit that I am also Alabama born.

I would like to say this, as my introduction, that nothing that I may intentionally say is by any means or in any way to be taken as critical of the United States Maritime Commission. If anything that I say may sound so, I hope the Senators will charge it to stupidity and not audacity, because it would be furthest from my mind.

Senator BAILEY. I do not think you ought to be backward in criticizing the Commission, because they have had it for a good many years.

Mr. TAYLOR. And I am sure they can take it. The objection of the Maritime Commission to the equivalent of this present bill before you [illegible] was contained in a letter signed by Mr. Woodward, [illegible] and as I recall it seems to be [illegible]

[illegible]

Senator BAILEY. Do you think we should have the bill provide that in the case of any line being operated by the Commission on February 1, 1939, preference in the operation, sale, or charter thereof shall be given to the agent operating such line for the account of the Commission on such date, requiring the Commission to negotiate with the agent in order that he may negotiate as to the allowances to be made by the Commission, perhaps to the exclusion of other people? What do you say about that? You say there is nothing new, from what you read there, but I think that is new.

Mr. TAYLOR. Senator, the law since 1920 has contained the word "preference" to certain concerns.

Senator BAILEY. We understand about that, but it did not provide for negotiation as to the allowances to be paid by the Commission, and so forth.

Mr. TAYLOR. I was just coming to that point, Senator.

Senator BAILEY. All right.

Mr. TAYLOR. That has been in there since 1920, consequently there is no change in there in that respect.

From 1920 to 1933, a matter of 13 years, this seems to have been the understanding of the Government as to what that preference meant, namely, that Congress, through section 7 of the 1920 act, would prefer to have these lines owned or chartered by those who have the support of their domestic communities. Being perhaps a little older than Senator White, and almost as long in my experience with this since 1920 as he has been, may I again express this opinion, at least as to why that was in there.

The Government, as you know, in 1919 was faced with the problem of finding commercial employment for a vast number of ships, war-constructed. The war was finished, so the question was what to do with them. There was, in the opinion of the Government, a shortage of trained shore personnel, shipping concerns to handle those ships commercially. There was a deliberate encouragement on the part of the Government to invite new people to enter into the ship-operating business, and a great many of them did so. They also had the experience of wharf congestion throughout New York, and the national advantage of providing other avenues of traffic so it could flow through the small ports other than in New York. They felt that that would be encouraged, that the distribution of commerce would be encouraged by giving their statement of preference, that the line should be owned and/or chartered, when it was possible to do so, by those companies who had cast their lots with the smaller ports, and that was understood by the Government and applied from 1920 until 1933, a matter of 13 years, based, I am sure, on the advice of their counsel at that time that they had the full right to do so, and every single—I will not say every single—the majority of the former Government-owned lines that had been disposed of were disposed of on the basis that Congress would prefer them to remain in the hands of the previous operators by negotiation with those operators, and sell or charter to them.

It is a remarkable fact that in distinction between the Government lines that have heretofore been sold under that point of view by negotiation as compared to those that have been sold by public competitive bidding, the record of success lies almost exclusively with those lines that were sold to their previous operators by negotiation.

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On the one hand I can cite the Dollar Line on the west coast. They obtained the Government lines from their previous operator, who was Grace, by competitive bidding. The operator went along for a number of years and got into difficulties, and the result is they went back into the Government hands through their stock ownership in the Dollar Steamship Co.

Senator BAILEY. Old man Dollar died and President Hoover got licked. They were not factors in that at all, were they?

Mr. TAYLOR. I do not know as to that. The United States Lines, the banner American-flag line on the east coast, arose like Aphrodite from the sea as the result of negotiations with the Shipping Board over the wreckage of the former United States Lines who had obtained the service by competitive bids.

Another example is this, an extreme example, if you please: The Mississsippi Shipping Corporation of New Orleans.

Senator BAILEY. I did not quite get this Aphrodite arising from the sea.

Mr. TAYLOR. That was just a burst of oratory; sir.

Senator BAILEY. Rhetoric. You would be speaking in an unknown tongue to us.

Mr. TAYLOR. The Mississippi Shipping Corporation of New Orleans is an outstanding example of the policy that was pursued by the Shipping Board for so many years and an unusual recognition of the intent of Congress to give the operator of the lines preference. They were allocated certain ships to operate for Government account. They did so efficiently and well, like we all do. They negotiated a sale or a purchase of those ships from the Government. They went into competition before the Post Office Department for an ocean-mail contract. It was absolutely essential for the operation of the line. They were outbid for the ocean-mail contract by a privately-owned New York concern. Both the Senate and the House, in their wisdom, adopted a joint Senate resolution, 190 I think it was, authorizing the Postmaster General to disregard the high bid of those two and to award the contract to the Mississippi Shipping Corporation, which was done. Since that time the Mississippi Shipping Corporation has, I think, shown a solid growth and a promise that is equal to any shipping concern in the United States. I think that that record has proved true in a number of other examples that I could quote but will not go into further detail.

Senator BAILEY. Would not you say if we passed this legislation to so provide that an agent or operator operating such line on February 1, 1939, should have a preference in the operation and sale but a preference also in negotiating the allowances to be made, that he would have no trouble about getting through with his case and probably put the Commission in a position where it would have to give him what he asked?

Mr. TAYLOR. No, sir; I cannot take quite such a rosy view as that, sir.

Senator BAILEY. You would like to have it that way?

Mr. TAYLOR. I would like to be able to explain why in just a moment, if I may.

Senator BAILEY. All right.

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Mr. TAYLOR. I would go one step further than the statement of the House committee in respect to the objection of the Maritime Commission and make the flat assertion that this is not a question of competition, a question of competitive bidding for the disposal of Government property. To illustrate that I would like to refer to and put into the record, if the Chairman please, what I think is a typical proposal for competitive bids for the disposal of Government property.

Senator OVERTON. Yes.

(The proposal for competitive bids is as follows:)

SALE OF NAVAL VESSELS—CATALOG NO. 419-B—SEALED PROPOSALS

Bids to be mailed to Bureau of Supplies and Accounts, Navy Department, Washington, D. C., to be publicly opened at 11 a. m. (eastern standard time), February 28, 1939, in the Bureau of Supplies and Accounts, Navy Department, Washington, D. C. Read the terms of sale

The following vessels are offered for sale by sealed proposal to be opened in the Bureau of Supplies and Accounts, Navy Department, Washington, D. C., at 11 a. m., eastern standard time, February 28, 1939.

LOT NO. 1

U. S. S. *Gwin* (DD71) located at the Navy Yard, Philadelphia, Pa. (as a hulk).

Description

Length over all	315 feet 6 inches.
Length on water line	308 feet 0 inches.
Extreme beam at or below water line	30 feet 8 inches.
Mean draft	7 feet 6 inches.
Displacement	1,020 tons.
Hull	Steel.
Type	Destroyer.

Built by: Seattle Construction & Drydock Co., Seattle, Wash., 1917.

Price bid for lot, $———.

LOT NO. 2

U. S. S. *James K. Paulding* (DD-238), located at the Navy Yard, Philadelphia, Pa. (as a hulk).

Description

Length over all	314 feet 4 inches.
Length on water line	310 feet 0 inches.
Extreme beam at or below water line	30 feet 8 inches.
Mean draft	9 feet 3 inches.
Displacement	1,190 tons.
Hull	Steel.
Type	Destroyer.

Built: New York Shipbuilding Co., Camden, N. J., 1918–20.

Price bid for lot, $———.

LOT NO. 3

U. S. S. *Lansdale* (DM6), located at the Navy Yard, Philadelphia, Pa. (as a hulk).

Description

Length over all	314 feet 4 inches.
Length on water line	309 feet 0 inches.
Extreme beam at or below water line	30 feet 6 inches.
Mean draft	9 feet 0 inches.
Displacement	1,160 tons.
Hull	Steel.
Type	Mine layer.

Built by: Fore River Shipbuilding Co., Quincy, Mass., 1918.

Price bid for lot, $———.

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LOT NO. 4

U. S. S. *Ambulance Boat No. 1* (YH1), located at the Navy Yard, Mare Island, Calif. (as a hulk).

Description

Length	65 feet 0 inches.
Breadth	16 inches 2 inches.
Displacement (estimated)	54 tons.
Hull	Wood.

Type, converted from motor tug *No. 97* in 1919.
Built at the Navy Yard, Mare Island, Calif., in 1918.
Date of commission, August 18, 1919.
Price bid for lot, $ ———.

LOT NO. 5

U. S. S. *Mercy* (AH4), located at the Navy Yard, Philadelphia, Pa. (as a hulk).

Description

Length over all	429 feet 10 inches.
Length between perpendiculars	413 feet 0 inches.
Breadth on load water line	50 feet 2 inches.
Mean draft	22 feet 8 inches.
Displacement (estimated)	9,450 tons.
Hull	Steel.
Type	Hospital ship.

Built by Wm. Cramp & Sons, Philadelphia, Pa., in 1907.
Purchased by the Navy in September 1917.
Date decommissioned, August 6, 1929.
Price bid for lot, $———.

LOT NO. 6

U. S. S. *Patuxent* (AT11), located at the Navy Yard, Philadelphia, Pa. (as a hulk).

Description

Length over all	156 feet 7 inches.
Length between perpendiculars	148 feet 0 inches.
Breadth, molded	29 feet ½ inch.
Mean draft	12 feet 3 inches.
Displacement, estimated	735 tons.
Hull	Steel.
Type	Oceangoing tug.

Built at the Navy Yard, Norfolk, Va., 1908–09.
Date of commission, May 4, 1909.
Date decommissioned, September 30, 1924.
Price bid for lot, $———.

CONDITIONS AND TERMS OF SALE

1. No award will be made to persons or firms who have failed to keep their contracts with the Navy or who have been placed on the list of defaulting contractors.

2. The sale of the vessels will be either on a cash basis or deferred payment plan.

See paragraphs (3) and (9) hereof.

3. Bids must be submitted in a sealed envelope, addressed to the Bureau of Supplies and Accounts, Navy Department, Washington, D. C., and endorsed on the outside of the envelope, "Bids on Sales Catalog 419–B" to prevent being opened with other communications before the date of sale.

4. The vessels are offered "as is," "where is," and "if is," without recourse. The description is based on the best available information but no warranty or guaranty is given by the Navy as to the exact conditions, weight, size or description, or that the same is in condition to be used for the purpose for which it was originally intended or may be intended or desired to be used by the purchaser. No claims upon any of the grounds aforesaid will be considered.

5. The Government will not be responsible for any errors or inaccuracies [illegible] iption of the items given herein.

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6. Full opportunity for actual inspection of the lots offered for sale in this catalog is offered to prospective bidders, and inspection should be made before submitting bids. Failure to inspect will not constitute grounds for claims or recission of sale.

7. A deposit in the form of cash, cashier's check, certified check or postal money order in the sum of not less than 25 percent of the total amount bid must accompany the bid. Endorsed checks will not be accepted. Bids of less than $50 must be accompanied by the full amount bid.

8. Cash bids must be accompanied by the original deposit of 25 percent of the amount bid. This deposit will be applied as the first payment, and payment of the balance due on such purchase must be effected within 10 days from date of receipt of notice of award. Payment may be made in the form of cash, cashier's check, certified check, or postal money order.

9. Bids on the deferred payment plan must be accompanied by the original deposit of 25 percent of the amount bid. The purchaser on the deferred payment plan will be required to furnish, within 10 days from date of receipt of notice of award, notes made payable to United States of America covering the balance of the purchase price in four equal quarterly installments, said notes to bear interest at 5 percent per annum, and to be secured by a bond with surety satisfactory to the Secretary of the Navy, guaranteeing payment of these notes.

The amount of said bond shall be 75 percent of the purchase price. The purchaser may have the privilege of liquidating the unpaid indebtedness at any time he may so desire, with accrued interest.

10. The original deposit of the successful purchaser, either on a cash or deferred-payment-plan basis, will be held as security, in case of failure to comply with the terms of payment, the 25-percent deposit will be forfeited to the United States Government as liquidated damages, and the bidder shall lose all right and interest in the vessels.

11. Tie bids (bids of equal amount) will be decided by lot.

12. Deposits of unsuccessful bidders will be returned promptly.

13. Checks are to be made payable to the Paymaster General of the United States Navy.

14. Upon payment of the purchase price in full, under the conditions of paragraphs (8) and (9), title to the vessels passes to the purchaser, and all handling thereafter shall be at the risk of the purchaser.

15. Upon the furnishing of proper security on the deferred-payment plan for the unpaid balance of the purchase price, title to the vessels will be transferred to the purchaser and all handling thereafter shall be at his sole risk and expense. The purchaser may then take immediate delivery of the vessels.

16. The right is reserved to reject any or all bids, to waive defects in bids, and to withdraw the lots from sale at any time before acceptance of any bids. Bids will be considered only if actually physically received at the appointed place, by the appointed time: *Provided, however,* That delayed bids will be considered if they bear the post-office cancelation mark, showing clearly that they were mailed in proper time and manner, to have been received in the ordinary course of mails before the time fixed for the opening of the bids; *And provided further*: That award has not already been made. A bid presented by hand even an instant after the precise time for opening specified in the advertisement is not a proper bid and will not be received. Telegraphic or telephonic bids received will not be considered. Modifications by telegraph or letter of bid already submitted will be considered if received prior to the hour and date set for opening.

17. The vessels must be removed by the purchaser at his expense within 30 days from date of receipt of notice of award. If the vessels are not removed within 30 days, wharfage charge, including Sundays and holidays, commencing on the day following the 30 days allowed for removal, will be charged against the purchaser, and if not removed within 60 days from date of receipt of notice of award, the vessels will be resold and the purchaser will lose all right and interest therein.

The rate of wharfage will be as follows:

Lots 1 to 3 inclusive, $35 per day for each vessel.

Lots 4 to 6 inclusive, $10 per day for each vessel.

18. The vessels will be delivered to the purchaser accompanied only by such articles as are on board at the time of sale. If anchors and chain have been removed from the vessels prior to inspection, suitable anchor and chain

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will be loaned to the purchaser, if required, the cost of installation and ultimate return to the activity from which obtained to be borne by the purchaser.

19. No representative of the Navy is authorized to make any statement or representation as to the quality, character, condition, size, weight, or kind of vessels offered for sale, and any representation or statement made by any representative of the Navy concerning the lots offered in this catalog will not be binding on the Navy or be considered as ground for claim or recision of sale.

20. The bidder will supply the following information. The right is reserved to reject any bid omitting this essential information.

The purpose for which each vessel on which a bid is submitted under lots 4 to 6 inclusive will be used (as a vessel) is _____.

(Or if the vessel or vessels will be scrapped.) If awarded to me/us, the vessel or vessels bid on will be scrapped at _____.

Scrapping will be completed within _____ from date of delivery of vessel by the Government. Scrap derived from the vessel or vessels will be disposed of as follows (state all information known or obtainable by the bidder to show the ultimate destination of the scrap): _____

(Period of time)

It is expressly agreed that no vessel in a lot referred to in this paragraph above, on which a bid is submitted, will be sold, transferred, or mortgaged, as a vessel or as a hulk to a person not a citizen of the United States, nor will such vessel or hulk be shipped outside the United States. In the event vessels covered by lots 4 to 6, inclusive, are to be operated as vessels subsequent to sale they will be promptly documented under the laws of the United States.

21. Vessels included in lots 1 to 3 inclusive are offered for purposes of scrapping only and the bidder agrees that if award is received that the vessel or vessels will be scrapped as indicated herein, or that in the event of resale the purchaser will be required to comply with the stipulations contained in paragraph 22. The bidder will state below (as to each lot on which a bid is submitted):

(1) Where the vessel will be scrapped _____.

(2) The number of days from date of delivery by the Government, within which the vessel will be converted to scrap _____.

(3) Ultimate destination of the scrap, so far as known or can be determined _____.

The right is reserved to reject any bid omitting this essential information.

22. It is further agreed that should any vessel mentioned above in paragraphs 20 and 21 become our/my property as a result of this proposal and subsequently offered for sale by us/me, the foregoing terms and agreements will be exacted from and by each subsequent vendee; and that a copy of each agreement from a subsequent vendee will be furnished to the Chief of the Bureau of Supplies and Accounts, Navy Department, as soon as resale is completed.

23. The Navy will recognize only the original purchaser of the vessel and will in every case look to the original purchaser for payment in full and for compliance with the terms of sale. Whenever any material is resold by the original purchaser, prior to removal from Government reservation, the Navy will make deliveries to parties designated by the original purchaser. Such deliveries will in no way release the original purchaser from full compliance with the terms of sale.

24. Having carefully examined and considered the foregoing conditions and terms of sale, I we hereby offer the price set opposite the lot which I/we desire to purchase and specifically waive any claim for adjustment on account of not having inspected the materials. This bid is accompanied by a deposit of $_____ subject to the terms of sale.

Name _____

(Signature: If a company, enter its name and follow with signature and capacity of representative acting, as "John Doe Co." per "Richard Roe." "Member of Firm." "President," etc.)

Street _____

City and State _____

_____ 1939. Tel. No. _____

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Mr. TAYLOR. This is a proposal of the Bureau of Supplies and Accounts, Navy Department, who have apparently certain auxiliary vessels that they wish to dispose of. In the simple but very effective way that the Navy has, as Admiral Land I am sure will recognize, they simply state that here are some vessels that they want to sell, bid for them competitively as and where they are, and the highest man comes and pays for them and takes the vessels away, and it is finished, there is nothing more to do with it.

The proposal we are discussing here from the Maritime Commission, is an invitation to bid competitively for the exclusive privilege of going into partnership with the Maritime Commission in an extremely hazardous shipping venture. The competitive bids that they ask for are, on one factor, the so-called basic charter hire. In effect they say that the man that bids the greatest amount of basic charter hire, they will give to him a contract for an operating differential subsidy, which, in the case of our two lines, the only ones with whose figures I am familiar, amounts to $650,000 per year. It gives that bidder a vested title to that, subject to adjustment at the end of the year, as provided in the law. In return for the competitive bid for basic charter hire the Maritime Commission award $650,000 operating differential subsidy and then the bidder and the Maritime Commission go into partnership, and based on the result of the venture, if there should be such a thing as a profit growing out of it, from that profit of the operation they agree that the amount of basic charter hire originally bid in response to this proposal shall first be deducted, and there shall also be deducted the overhead cost of doing business on the part of the operator. If there is anything left the operator may deduct from that 10 percent on his capital stock that is employed in the operation. If anything is left beyond that, it is to be divided between the Maritime Commission and the successful charterer on a 50–50 basis.

It follows, of course, that under that procedure if the operation is profitable, and as a business matter it presumably will be, else it could not continue indefinitely at private capital's expense, the Commission itself would pay half the charter hire that they asked competitive bids on, because that has to be deducted before the Commission and charterer divide the profits on the 50–50 basis.

Senator BAILEY. You are not in favor of the competitive bids?

Mr. TAYLOR. Not in an involved partnership transaction of this kind.

Senator BAILEY. I mean under the circumstances.

Mr. TAYLOR. If it was simply a Navy proposition of wanting to get rid of some ships, the disposal of Government property by competitive bids was all right.

Senator BAILEY. I mean in these premises you are not in favor of competitive bids?

Mr. TAYLOR. In these premises I think competitive bidding is very misleading and might be a very unfair method of determining how and where the Government operations shall be handled.

Senator BAILEY. You agree that this legislation would tend to eliminate the competitive bidding?

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Mr. TAYLOR. No, sir; I do not consider that it would at all. I consider that it would restore the right or duty to the Maritime Commission to negotiate with the present operators, to see if around the table they can arrive at a basis which is reasonable and fully protect the Government and the purposes of the Merchant Marine Act, and if they do determine such a basis as that, to go ahead and sell the lines as they have done for the previous 13 or 14 years.

Senator BAILEY. That is just the point of my difficulty. Why would I bid if I knew that you could privately negotiate and in your private negotiations you might obtain greater allowances than I could contemplate? I have no private arrangement; but you have private access to the Commission, and that gives you such an advantage as would drive me out; I would not come in; I would spend my time doing something else.

Senator OVERTON. I may be somewhat confused as to the provisions of the bill. Let me interrupt just a moment. The provision of the bill is that the negotiations would first be attempted; and if they fail, then advertisements would be made.

Senator BAILEY. Yes.

Senator OVERTON. And there shall be no sale or chartering on competitive bids until negotiation had failed?

Senator BAILEY. Yes.

Senator OVERTON. So whoever contemplates bidding will not have to come in competition with any private arrangement or negotiations that might be had.

Senator BAILEY. He never would get in. It would eliminate your bidding if the negotiation comes into it. He has every advantage. If he could not make a deal satisfactory to him through his negotiations, then you advertise the bids.

Senator OVERTON. I see. That is clear.

Senator BAILEY. That eliminates your bidding by way of giving this other man preference that I would not have as a bidder.

Senator OVERTON. He had the preference of negotiation.

Senator BAILEY. Yes.

Senator OVERTON. Then he had a preference in the bidding, too.

Senator BAILEY. Yes; and he has got a chance that I do not have of asking for larger allowances on account of wages, fire insurance, and this and that. I could not drive a bargain. It would not pay me to go in and bid. He could go in and drive the best bargain he could, and if he is not satisfied with it, then throw it on the market. Of course, the bid would be much lower than it would be privately, because he has got the advantage here. He could get a higher allowance.

Senator BARBOUR. Mr. Chairman, I think I have on that point something that would be in line with the Senator's point that he wants to have cleared up. There is nothing in the act that would prevent the Maritime Commission at one and the same time negotiating with any other person for the sale or charter of such a line to such person. In other words, if they elect to do so under this legislation they can take up with the operating lines, who certainly know the operations of the lines, if anybody does, what their proposion is, and without disclosing that, they at the same time can be negotiating with you and me.

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On page 3—I think I may have the House bill before me, however—on page 3 of the House bill, line 4, it states:

the Commission shall negotiate with the agent who on such date was operating such line for the account of the Commission for sale or charter of such line to said agent—

And then continues on line 7:

and may negotiate with any other person for sale or charter of such line to such person.

Senator BAILEY. You said "page 3." I did not get that.

Senator BARBOUR. I was reading from the House bill.

Senator BAILEY. I was reading from the Senate bill. This is the act introduced by yourself [reading]:

Before advertising any such line for sale or charter, and notwithstanding any advertisement prior to February 1, 1939, for such sale or charter, the Commission shall negotiate with the agent who on such date was operating such line for the account of the Commission for sale or charter of such line to said agent, and may negotiate with any other person for sale or charter of such line to such person.

Senator BARBOUR. So they can, if they want to.

Senator BAILEY. It is mandatory as to the man who is the agent. It has already been testified here that the object—I do not say the present witness, but the prior witness did say that the whole purpose was to give him a chance to sit in with the Commission and ask for better allowances with a view to his bid. Is that what you have in mind with respect to your line?

Mr. TAYLOR. If your view is intended as a question, I would like awfully well to answer it without being in the position of disagreeing with your conclusion.

Senator BAILEY. I do not put you in any position. Go ahead.

Mr. TAYLOR. The particular question you refer to is not involved at all, the matter of allowances, by which I am sure you mean the operating-differential subsidy.

Senator BAILEY. The amounts that the prior witness talked about.

Mr. TAYLOR. They are now subject to negotiation in the sense that anybody in the world that is interested can come down and discuss the matter with the Commission, give it his various views as to what they should be or go into the various factors that go into the operating subsidy, knowing, of course, that the final decision rests ultimately with the Board and just the percentages that the Board gives out are going to apply. The negotiation, after all, relates, in my mind, to the assumption that we have all had, that Congress meant by its expression in continuous legislation since 1920 that they would prefer to see these lines go permanently in the hands of their present operators, whether it is February 1 or any time precedent thereof. They always work exactly the same way. If it could be done on terms that were fair and reasonable and fully protect the Government in the best interests of the merchant marine, and accepted according to the act, if that were true and Congress would prefer to have that accomplished with the present operators, then why should the Commission be required to go out and ask for competitive bids against that preferred custom, especially when this competitive bid is related only to one factor alone, that does not by any means determine what the Government is going to receive for these ships.

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Senator BAILEY. The preference relates to the negotiation, to come in and negotiate—not only negotiate the terms of sale or the terms of charter, but also negotiate the terms of allowances and what the Commission will pay. Is that not so?

Mr. TAYLOR. The terms of allowances are always negotiated, as far as that is concerned, and, as a matter of fact, are now firmly fixed. As a matter of fact, nobody knows at anytime what allowances they are going to get. They will start out on a certain percentage of operating differential subsidy, they will make a 75-percent allowance on that amount, and at the end of the year they will determine what those allowances are finally going to be, and nobody knows until that year is up what those allowances are going to be. As to preliminary negotiations, that has always been done, and anybody can say what they want. They get their views, consider what they are worth, but the edict comes down entirely from the Commission as to what the final operation is going to be, and the year's operation will determine what the final allowance will be.

Senator BAILEY. Each bidder would be on an equal footing with a preference indefinite in character to the bidder.

Mr. TAYLOR. I think it is impossible to present a fair and reasonable proposal in accordance with the law in the form of a competitive bid or a proposal for a competitive bid. It is simply misleading to ask for that and is not determinative of any of the issues when you get it.

Senator BAILEY. That is very frank, and that is exactly what I have been leading up to all the time. The purpose of this legislation is to destroy the principle of competitive bidding?

Mr. TAYLOR. No, sir. The principle of competitive bidding does not apply fairly in this case.

Senator RADCLIFFE. I think your statement just now probably answers it, to a certain extent. I wanted to be sure I understood clearly your idea. I think you said a little while ago that competitive bidding would be unfair. I assumed you meant it would be unwise and maybe undesirable from the standpoint of either the Government or yourself, or both.

Mr. TAYLOR. Yes, sir.

Senator RADCLIFFE. But did you also mean to bring in the element of unfairness? I see you partly answered that just a moment ago.

Mr. TAYLOR. Not in an invidious way; no, sir; only that it fails to reach the actual facts of the situation either in the interest of the Government or the interest of the operator.

Senator RADCLIFFE. I want to know whether you meant to stress that particular element?

Mr. TAYLOR. No, sir.

Senator RADCLIFFE. In any sense whatever?

Mr. TAYLOR. I did not mean to stress that in the sense of unfairness in that respect, only unfairness in failing to meet the real facts of the situation.

Senator BARBOUR. After all, Senator Radcliffe, the bidding in effect is a bidding to negotiate, not an out-and-out bid, in the sense that Senator Bailey, I gather, has in mind, because there will be negotiation in any event, and will have to be. You cannot cover it in a sealed bid.

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Senator RADCLIFFE. I did not take exception to Mr. Bailey's statement. I just wanted to know whether he would stress the element of fairness as well as desirability.

Mr. TAYLOR. I wonder if I can pass these various computations around, which may show better than I can describe just the point I am trying to get in there, and the one, as Senator Barbour has said, is inevitable in every case. You cannot get away from it.

(The paper referred to is as follows:)

	Company A	Company B
Competitive bid received for charter hire initially agreed to be paid	$50,000	$100,000
Profit from operation of the chartered ships, dependent upon relative abilities of the bidders	250,000	200,000
Charter hire agreed to be paid according to bid	50,000	100,000
Charterer's overhead expense	50,000	50,000
10 percent allowed on charterer's capital	25,000	25,000
Balance of profit to be divided 50-50 between charterer and Commission	125,000	25,000
Commission's 50 percent recapture from profits	62,500	12,500
Charter hire bid as initially agreed to be paid	50,000	100,000
Total charter hire received by the Government	112,500	112,500

Senator BAILEY. Are you in the same position that the preceding witness was in? You are representing a company that is operating, or was operating, as of February 1, 1939?

Mr. TAYLOR. Yes, sir; and for 10 years prior thereto.

Senator BAILEY. Have the ships you have been operating been advertised?

Mr. TAYLOR. They have been advertised; yes, sir.

Senator BAILEY. Have bids been made on them?

Mr. TAYLOR. Yes, sir.

Senator BAILEY. How many bids, or how many bidders?

Mr. TAYLOR. Two years ago when they were advertised we made an unqualified bid. That was the only bid received for the line and represented an amount which was within $400 per year of the amount the Maritime Commission itself estimated they would receive as charter hire of our lines. That bid was rejected under the perfect right that the Commission reserved to itself to reject any bids. There were again advertised bids returnable on February 20. This big United States Lines was the only bidder, and we did not bid. Do not judge us too harshly for that reason. We were the only bidder 2 years ago and the United States Lines the only bidder this time, so the score was even in that respect.

Senator BAILEY. You did not bid at this time?

Mr. TAYLOR. We did not bid at this time. We did not bid simply because—well, the proposal offers us, on the face of it, a very attractive proposition, about $650,000 of Government subsidy per year in return for not bidding on this basic charter hire. It happens that $650,000 a year, although that is more than the actual voyage loss from the operation, is not enough to cover our cost of doing business as an independent enterprise.

Senator BAILEY. Do not the United States Lines now take the other view, or do not they take the risk?

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Mr. TAYLOR. I imagine they would take the view, like all of us do, according to where their interest lies. They have paid in this case an amount which is quite recognizable as being almost identical with the cost of our Virginia enterprise, its overhead cost, salaries, rent, and the other costs of doing business, which we could not find any way to meet under the estimate of the voyages that are current, plus this operating-differential subsidy. The United States Lines can, and we could, too, if we were in their place, find a way of making that bid, for the simple reason that they already have other operations for which the Government is giving them $2,500,000 per year in operating-differential subsidies, in addition to some $27,000,000 or $28,000,000 that they previously received under ocean-mail-contract awards. They, too, are in the same position that we are in respect to another service, the American Pioneer Line, which they are operating for the Government and are being paid overhead costs of about $160,000 a year, which is not included in these proposals for charter or sale, but which soon will be coming up for charter or sale. There is no telling, for that reason, what their attitude will be. If they are confronted with competitive bids for their service, and they want it, they will probably feel as we do, that Congress has always stated they prefer to have the operator handle the line and will probably expect the same preferences that the law has heretofore provided, including no doubt, the right of negotiation.

Senator BAILEY. Are they supporting this bill?

Mr. TAYLOR. No, sir; they are not supporting this bill. They are rather opposing it, I take it.

Senator BAILEY. You spoke as if they had in mind that they would come in for the bill.

Mr. TAYLOR. I am not stating that as a fact, only as a possibility, because in that respect their position as an operator in the Government service is the same as ours. They are not supporting it, Senator, and ordinarily would not be expected to, because, frankly, a concern of that size, with an already large organization, can, generally speaking, always outbid a smaller concern by the amount of that smaller concern's overhed or organization costs, because they can absorb marginally in the overhead cost that they already have and they are being paid for a certain amount of additional work, and therefore dispense with the expense that the other fellow has to use to pay his separate overhead, the salaries.

That brings us back to this question, that is also one that the House committee mentions and which subsequent events proved only too well that it was true. The House committee report says:

> The invitation is in such form that the interests of the United States may not be protected, the preferences created in existing law to present operators may be invalidated, and the equitable distribution among ports may be endangered (*a*) by a fly-by-night or speculative operator, or (*b*) by the creation of a monopoly serving diverse ports but primarily interested in the development of only some of the ports served.

It probably would be libelous, and I want to say here that paragraph (*a*) does not involve the fly-by-night associated with the United States Lines, but I must say I think the House committee anticipated the situation in section (*b*) and that the creation of a monopoly was not only permitted in these invitations but if the bid is accepted it will result from these invitations. For this reason: That if they

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obtain the three lines that are now in question, the United States Lines will then have a complete monopoly of all of the American flag subsidized services from all the North American ports to all of the continental, United Kingdom, and Irish ports, which raises the question whether you want monopolies or whether you do not.

Senator BAILEY. Do they have enough ships to handle that service, that is, the whole Atlantic service?

Mr. TAYLOR. They would get 16 ships under this charter probably and that would be enough to maintain the services.

Senator BAILEY. You think in order for the Congress to preserve the smaller businesses, shipping or otherwise, we must pursue a policy of special favor for those businesses?

Mr. TAYLOR. That is a question of statesmanship, Senator Bailey. That does not call for an opinion, except if you want one, from a stupid layman. I have one, like most of us do, on such questions.

Senator BAILEY. We have a bill on here about chain stores. The little fellow says the chain store is ruining everybody. We must tax the chain store out of existence. Is that illustrative of your attitude?

Mr. TAYLOR. That is a classic argument. My position on it, naturally, being a poor man myself, is in favor of small business. I may be deadly wrong about it and capitalistic monopoly might be quite the thing. I would imagine, however, that more light on that would come from the work that another joint committee is doing in the matter of investigating monopolies. I refer to Senator O'Mahoney's committee, and the active work of the Attorney General in respect to certain monopolies already in being. It would seem, from my point of view, at least strange if one branch of the Government would find it necessary to investigate the question of monopolies already in existence and the Maritime Commission would create numerous shipping monopolies at the same time. That is precisely what this invitation and what the results of this invitation are.

Senator BAILEY. It is the policy of all governments to create monopolies in the public service.

Mr. TAYLOR. Yes, sir.

Senator BAILEY. The railroads, the utilities, the commerce now in the air, and radio.

Mr. TAYLOR. You can unquestionably find such great economies from monopolies that it carries an argument for them, but if that logic is good and it is carried through to the ultimate analysis, then why not let there be a Government-owned monopoly, eliminating still further overheads, if you please, not only our little overhead down at Norfolk, which does not amount to much anyhow, but some overheads in New York and somewhere else in the country. If you want a monopoly, have a big one.

Senator BAILEY. We may come to that.

Mr. TAYLOR. Yes, sir.

Senator BAILEY. What is your capital?

Mr. TAYLOR. The capital is almost too small to put into the record, Senator. I would be very bashful about doing it.

Senator BAILEY. Go ahead.

Mr. TAYLOR. As a matter of fact, we are operating as agents for the Maritime Commission who pay our overhead very promptly, and there is very little need for capital on our part. We did have

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more capital than we have now, but, frankly, we distributed it among our stockholders probably because of what we read in the newspapers that undistributed profits were not desirable.

Senator BAILEY. What profits? Did you really have profits?

Mr. TAYLOR. Yes; most of them were profits.

Senator BAILEY. What was the original capital?

Mr. TAYLOR. I think $50,000.

Senator BAILEY. How high did you get with your capital and surplus?

Mr. TAYLOR. We got it up, I think, finally to the point of about $250,000.

Senator BAILEY. How much did you distribute?

Mr. TAYLOR. We distributed altogether about $100,000.

Senator BAILEY. That leaves you now how much?

Mr. TAYLOR. About $50,000. Now with $50,000 of capital, which is adequate for our present purposes, we have, of course, a bond in addition to that which protects our employees with the Maritime Commission. Naturally we would not have bid 2 years ago for the charter of the ships for our own account if that was the only capital that we saw in sight, nor would we, on three different occasions prior to that, try to buy the lines under the ocean-mail contract. We felt as long as we knew where we could get the capital proportionate to the investment we made, that that was almost the same as having it actually in the treasury, in our so-called treasury and not being used.

Senator BAILEY. When did you distribute it?

Mr. TAYLOR. At various times. We were the first operator of Government lines who risked any money in their operation whatever for their own account.

Senator BAILEY. So that was in response to the act of Congress?

Mr. TAYLOR. That was in 1929; yes, sir.

Senator BAILEY. The act of Congress was not passed until 1936 and it related only to the profits made that year, and it was repealed this last year. It did not operate but 1 year. You do not tell me you made $100,000 in any one year, do you?

Mr. TAYLOR. We were, as I say, the first operator which was willing to risk his own money in the enterprise, to operate ships on his own account, in what is practically the same, in effect, as the present charter and operating-differential subsidy. We took the line on for our own account at a lump-sum allowance, which was very substantially less than the Government had been losing on the service up to that time. Good fortune was with us. We made money instead of losing it, as we could have just as well, and we made some profits under the lump-sum agreement. We were also—if I may brag a little bit now when I get this rare opportunity—the first operator, steamship concern, I think, to ever propose of his own initiative a limitation on his own profits, which we did by suggesting to the Maritime Commission that in return for relief to some extent of the liabilities we were undertaking, we would be glad indeed if they would set their own terms for operating the ships and put in a sort of recapture clause there, if they wanted to, and set up the clause with the amount left blank so that they could put in anything they wanted to. No one paid attention to it at that time, but the same

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principle found expression in section 709 of the present Merchant Marine Act of 1936.

Senator OVERTON. Do any members of the committee want to ask Mr. Taylor any additional questions?

Senator BAILEY. Not right now. I think it is time for lunch.

Senator OVERTON. We will recess until 2:30.

(Whereupon, at 1:15 p. m., a recess was taken until 2:30 p. m. of the same day.)

AFTERNOON SESSION

(The hearing was resumed at 2:30 p. m. pursuant to adjournment for the noon recess.)

Senator OVERTON. We will resume the session. Mr. Taylor, at the time we took the recess, you were on the stand, and you had some additional statement to make, as I understand. The committee will be very glad for you to proceed.

STATEMENT OF W. F. TAYLOR—Resumed

Mr. TAYLOR. Thank you, Mr. Chairman.

I wanted at the beginning to refer back to Senator Bailey's embarrassing question about capital, and to state, however, that my reply to it was not intended to be in the form of a pauper's oath by any manner of means.

Capital, of course, is composed of assets and liabilities, and a company with $2,000,000 capital stock might well have $500,000 of liabilities against the $2,000,000 of stock.

What capital we have and what capital we always have at any time had, has been sufficient to meet our obligations. We have always met them. They have been sufficient either by capital in hand or capital that we know that we can put in hand, as the occasion requires, to meet any offer that we have ever made. Those offers consisted first in 1930 with an offer to buy four ships of the American Hampton Roads Line, after negotiations with the Shipping Board, and an agreement executed for the purchase of those four ships with a cash deposit in the amount that was required at that time, subject only to the award of the ocean-mail contract. However, the four-ship operation was considered too small at that time to merit any recognition, and we were not able to get from the Post Office Department the award of the mail contract under the act of 1928.

Two years later, our operations were somewhat enlarged by the Shipping Board seeing fit in the interest of economy, to place the Oriole Lines under our management and operation, all of this time the lines being operated at our own corporate financial risk, aided by a lump-sum allowance on the part of the Commission, which actually was less than the allowance that we would have received under the operating-differential subsidy. With the enlargement of our operation, to meet in some degree the demand for size, we have reached the dignity of having eight ships, and again increased our purchase contract from the Government to cover those eight ships and increased our deposits for their purchase at a definite contract with them, and again applied for an ocean-mail contract to cover the combined operations, which on this occasion was recognized origi-

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nally by the Post Office Department, and an ocean-mail contract was advertised or started to be advertised. While it was in the process of that advertisement and then pending, through the intervention of the United States Lines interests, we were told by the Post Office Department that that advertisement would be withdrawn and no ocean-mail contract awarded unless we had gotten together with the United States Lines or I. M. M. interests on a basis that would permit another one of their lines, the Philadelphia Mail Steamship Co., to participate. Having no alternative, we did that.

The revised advertisement was then published and the bids were to be opened March 3, I believe it was, of 1933, at which time the outgoing Postmaster General declined to sign the mail contract, although we were the only bidder for it, because of a Senate resolution questioning the intervening contract or intervening operation of the Unted States Lines or the I. M. M. interests. We spent several weeks after that time trying to get the signature to that contract, which had, in effect, been awarded, in that we were the only bidder, but unsuccessfully, and nothing happened until 1937 when we were again the only bidder for the charter of the line, and it has not been advertised since then to now.

On each of those occasions, as I state again, we had the capital in hand or knew where we could get it, and no one has a right to say that we were bluffing at any time unless they were willing to call our bluff, which never has occurred, no matter how hard we have tried to get it called.

Any other venture that we may go into or any other offer that we may make, I assure you gentlemen that it will be backed by whatever capital is necessary to carry through our obligation.

Senator GUFFEY. Did you bid on this last advertisement, for your line?

Mr. TAYLOR. No, sir; we did not.

Senator GUFFEY. All right, go ahead.

Mr. TAYLOR. Just before adjournment, I passed out a very brief memorandum intended to illustrate what I meant by saying that this proposal is one for the exclusive privilege of a partnership enterprise with the Government, and not one for the disposal of Government property. If that memorandum can be located, Mr. Chairman, I don't know just where it went.

Senator OVERTON. I have a copy of it, and I suggest that it be placed in the record at this point.

	Company A	Company B
Competitive bid received for charter hire initially agreed to be paid	$50,000	$100,000
Profit from operation of the chartered ships, dependent upon relative abilities of the bidders	250,000	200,000
Charter hire agreed to be paid according to bid	50,000	100,000
Charterer's overhead expense	50,000	50,000
10 percent allowed on charterer's capital	25,000	25,000
Balance of profit to be divided 50-50 between charterer and commission	125,000	25,000
Commission's 50 percent recapture from profits	62,500	12,500
Charter hire bid as initially agreed to be paid	50,000	100,000
Total charter hire received by the Government	112,500	112,500

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Mr. TAYLOR. It will be easier to follow the figures as we go along.

Senator OVERTON. Is this an actual bid?

Mr. TAYLOR. No, sir; it is entirely hypothetical and is oversimplified merely for convenience in following the thought, and the figures have no actual reality whatsoever, but I have set up here the results of competitive bidding under the headings of "Company A" and "Company B." The competitive bid that is asked for in the proposal is a competitive bid for the payment of basic charter hire. The first line shows what competitive bid has been received for charter hire, and for the basic charter hire——

Senator OVERTON (interposing). What is meant by "basic charter hire"?

Mr. TAYLOR. As nearly as I can explain it briefly, it is a guaranteed charter hire, the guaranteed basic charter hire, which is one of the factors used in figuring what the Government eventually will receive from the operation after taking into consideration contingent factors, which I think is more fully explained in here.

The proposal therefore is to ask for competitive bids for basic charter hire, and I have assumed that company A is a little fellow like us that could only bid $50,000. We did not bid anything on this occasion—but I will come to that in just a moment.

Assume that the small company A bids $50,000, and the big company B bids $100,000; in other words, we are overbid 100 percent by this proposal.

Then what happens? The next step is what profit if any will result from the operation of the chartered ships that are bid on. That necessarily will depend somewhat on the relative abilities of the bidders. When they say that a big organization with lots of offices in the interior, and so forth, will be able to produce more profit than the little fellow, the other man will say that the little fellow who lives closer to the operation and where it has a more direct bearing on his meal ticket will be able by intensive effort will very likely actually be able to create more profit for a particular operation.

On that latter theory, I have given company A the benefit of assuming that he can turn in a profit from the operation of the line of $250,000 in the first year. Company B, being so big that he has not got the time to devote to it, turns in a profit of $200,000.

Now, on that basis, the charter hire that results from these competitive bids is in the one case $50,000 of company A, and in the case of company B, $100,000.

The first charge under this proposal and the resulting agreement—against that operating profit of $250,000 in the one case, and $200,000 in the other case—is the charter hire that is bid upon competitively under this proposal. The small fellow has bid $50,000, and the big fellow $100,000. Against that operating profit is the charterer's overhead expense. We have assumed that to be the same in both cases, $50,000 and $50,000.

The next charge against that operating profit is the 10 percent that the law allows to be deducted by the charterer on his capital stock that is used in the enterprise. We have assumed the capital stock to be the same in both cases, $250,000 and 10 percent of that would be $25,000.

Adding those three items up, we have in the case of the small company A, a balance then from the $250,000 operating profit, of

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$125,000. That $125,000, according to section 709 of the Shipping Act is divided 50–50 between the charterer and the Commission.

The Commission then would get $62,500 out of that operating profit of $125,000, and, of course, it would have had the original basic charter hire that was competitively bid under this proposal of $50,000. So it would receive for the use of its ships, coupled with the operating differential subsidy that it awards with the operation, a total of $112,500 as the total consideration to the Government.

In company B, however, there is to be deducted from the lower operating profit of $200,000, first the much higher sum that he bid as the basic charter hire, which is $100,000. He deducts the same overhead expense and the same allowance on his capital, and after deducting those from the $200,000 operating profit, he has $25,000 left to divide with the Government 50–50. The Government share of that $25,000 would then be $12,500, in addition to which he would have the $100,000 competitive bid received on the basic charter hire, and the result to the Government would be $112,500, which would be exactly the same as he would get from the low man who only bid $50,000, against the high man's $100,000. It is on that theory, and I think that you would find on checking that it is the correct application of the present law, and it seems to us totally impossible to put in the constraints of a public proposal for competitive bids, with all of the ingenuity which the Legal Division of the Maritime Commission have, all of the factors that go into the equitable proposal, an equitable proposal—one that is in the interests of the Government, in the interests of the objectors of the American merchant marine.

You will also notice from that that there are at least two factors that would require negotiation after the competitive bids have been taken for the basic charter hire. All that would come in response to this proposal is what the company is willing to guarantee as basic charter hire to be deducted later from any operating profits before dividing with the Government, but the Government's final receipts depend also upon the charterer's overhead expense. That is a variable expense; one company might have one overhead expense, and another company might have another one. Of necessity, it would be necessary to negotiate between the Maritime Commission and the successful bidder as to what overhead expense was going to be recognized as the proper basis to be deducted from the profits of the operation on which the Commission's share depends. The same thing is true on the charterer's capital on which 10 percent can be deducted.

Senator OVERTON. In your operation today as the agent, the Government pays the overhead expense, but what does that include? Does that include all of the expenses of operation?

Mr. TAYLOR. The operation of the ships is entirely for the Government's account. They get all of the revenues from the ships and pay all of the expenses of the ships. To us, for managing the operation itself——

Senator OVERTON (interposing). Pardon me. Throughout these hearings before this subcommittee and in the House, reference is made to the fact that the Maritime Commission pays the overhead expenses.

Mr. TAYLOR. Yes, sir.

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Senator OVERTON. By "overhead expense" do they mean all the expenses of operation?

Mr. TAYLOR. As I say, the actual expenses of the ship are paid for the Government's account as principal.

Senator OVERTON. The Government pays all the actual operating expense?

Mr. TAYLOR. Yes. Then the next allowance is simply the bare actual cost of the salaries, rents, and other expenses of the manager who operates that line for the Government.

Senator OVERTON. What is the overhead?

Mr. TAYLOR. What does it amount to in figures?

Senator OVERTON. No, what is meant by that?

Mr. TAYLOR. Salaries, primarily; rent, communications, and so forth.

Senator OVERTON. No expenses of the crew?

Mr. TAYLOR. No, sir; that is a part of the operating expenses of the ship as distinguished from the shore expenses of the operator.

Senator GUFFEY. Overhead, in shipping circles, means the shore expenses?

Mr. TAYLOR. Yes, sir; that is exactly what it means. The sea operations of the ships, whether it is a profit or a loss, accrues entirely to the Government. The agent who performs that operation for the account of the Government is allowed his bare cost and the overhead expenses of the organization used for that purpose. There is not at the present time and has not been since July 1, 1936, any provision to the operator for the corporate profit or any opportunity for any. It is simply that the Government has adopted the corporation as its bonded employee and pays him a salary as employee equal to his actual cost of performing that service.

Senator OVERTON. What I want to get at is that the overhead expense is not such a well-defined item as could be so fixed that there would be no negotiation as to what should be the items which constitute overhead expense?

Mr. TAYLOR. They would have to reach a figure that would be acceptable to both sides. One concern might well say that "Our overhead expense for conducting this operation is going to be $100,000 a year." The Commission might say, "We would not consider that much of an overhead expense. It should be only $75,000 a year." There has got to be a negotiation, an exchange of ideas in order to reach one figure on which both the charterer and the Commission agree, to be the overhead expense to be deducted from the profits before the Commission itself commences to share in those profits.

The same is true of the charterer's capital. For example, there might be a company like the United States Lines——

Senator OVERTON (interposing). In submitting proposals for bids as they have been recently, the Commission cannot fix what the overhead expense would be in reference to any particular line?

Mr. TAYLOR. In the last analysis, the Commission's decision would be final as to that.

Senator OVERTON. I mean, so that you would know definitely what you are bidding on?

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Mr. TAYLOR. You don't know definitely, Mr. Chairman. Under the proposal, there is nothing in there whatsoever that determines the factor of overhead or determines the factor of capital.

Senator OVERTON. Why not? Can the Commission not determine in advance and state in the advertisement for bids just what the overhead will be?

Mr. TAYLOR. I don't think that they can, for this reason, and that exactly illustrates what we have in mind in asking for the negotiation, because those factors must necessarily be discussed. They simply cannot be put up for a blind competitive bid, either in respect to the charter hire or the charterer's capital, and while the Commission has the final veto power and the decision as to what they will consider to be those two factors, they, in their equitable consideration of the successful bidder, would naturally exchange views with him or negotiate, if you want to call it that, and arrive at what they consider to be a reasonable overhead, and consider what is to be the capital.

Senator OVERTON. The 10 percent to be allowed on the charterer's capital is not subject to the negotiation? That is fixed?

Mr. TAYLOR. Take a company like the United States Lines, that has a corporate capital of $2,500,000—the Commission might, and perhaps would say, that that entire $2,500,000 of capital is not necessary for the operation of these two or three small lines, and they are not going to allow them the full 10 percent on that entire $2,500,000 capital to be deducted from the profits before they share in them.

Senator OVERTON. They would allow only the capital employed in the operation?

Mr. TAYLOR. Only what they considered to be properly applicable to this particular operation.

Senator OVERTON. That would not apply to your case, because all of your capital would be employed?

Mr. TAYLOR. No, sir; it would apply to our case, because if we took these ships over, naturally we would have to increase our capital to the requisite amount to meet the capital requirements, and of course we would expect to do that. Not knowing how much capital would be necessaray for that operation, either the requirement by the Commission or ourselves, there would be no point in accumulating it before knowing how much capital would be required.

Senator OVERTON. The Commission cannot determine that item in advance and give notice to the bidders?

Mr. TAYLOR. It would be possible to do so, but I doubt whether they would undertake to do so, because they would certainly want, and I am sure they would be willing to exchange ideas with the other man and get his opinion on it too, and arrive at that figure, or those two figures, by discussion rather than by mandate, and those discussions would be in our mind, negotiations.

Senator GUFFEY. When you file your bid on your overhead, or file with them a list of the salaries, that is, you say, your shore expenses?

Mr. TAYLOR. Yes, sir; that is all subject strictly to Maritime Commission order. Nothing is allowed us at all that has not been approved by them and by the Accounting Department in Washington.

If our understanding is correct, the return to the Government on these lines in return for the operating-differential subsidy will neces-

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sarily depend upon those other two factors, as well as on the basic charter hire, and since negotiation is necessary or advisable at least on those two factors, it seemed to us that negotiation on the third factor of the basic charter hire would also be in order. That in turn is based on our assumption that Congress has said through the shipping acts that they would prefer to have these lines operated by their present operators, those who have gone into the business and have good enough to maintain the operation up to the time of the sale or the charter.

I would like to say here that if there is anybody in the world that should be afraid of negotiation with the Maritime Commission, it should be us operators and not the Commission. I have had some experience in negotiating with them. They were charming on the one hand, and they take the shirt off your back with the other and give it to the Government. They have carried Yankee trading to the limit, and they have nothing to fear so far as we are concerned, and if it would be possible to put it all in the one basket, I would rather say that I would rather do that than take my chances with the Maritime Commission. The question of inordinate profits does not enter into this discussion at all, because under section 709 there is a definite limit placed on that 10 percent of the operative capital, and an equal division if any above that. On the other hand, there is a very definite risk involved on the part of the charterer, who has to assume that risk alone, because if there is any loss from the operation, the charterer himself and not the Commission would have to bear that.

The reason that we were not able to bid was that under present operations of the line, applying the operating differential subsidy that the Commission would allow, we could only figure that even if present results were maintained without set back over a period of 1 year, there would be at most $19,000 margin out of an operation that involves $3,500,000 of investment in the matter of expenses of the voyages.

Senator GUFFEY. What would be the gross receipts?

Mr. TAYLOR. The gross receipts and the expenses just about balance each other, $3,500,000.

Senator GUFFEY. What is your capital investment on that amount of business?

Mr. TAYLOR. On $3,500,000 the question of the amount of capital would be indeterminate. We would have to have enough of course, to pay the current bills.

Senator GUFFEY. The cash capital—how much of your own investment would there be—two or three or four million dollars?

Mr. TAYLOR. There would be no occasion for two or three or four million dollars, because I am sure that the Commission would not recognize that amount of capital as being properly employed in this operation.

Senator GUFFEY. I was trying to find out what would be the proper amount?

Mr. TAYLOR. I would think, and this is entirely again subject to negotiation—it depends largely on what the Commission thinks you should have—I should think that on an operation of this size, where the charter hire if we were the successful bidder, and of course we have a $200,000 bond filed with the Commission, a bond that we

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[illegible] assets and pay the bills and save them harmless [illegible] but as to the result of it, there is a constant [illegible] of revenues and expense, and I should think [illegible] $250,000 on the part of the charterer would be sufficient for that purpose, and perhaps as much as the Commission would allow to be considered as the capital necessarily employed. That is entirely ex parte. I have no idea what the Commission's views are.

Senator GUFFEY. What is the total invested capital that the Government has in the eight ships, approximately?

Mr. TAYLOR. The total amount that the Government has invested in these ships——

Senator GUFFEY (interposing). Is it eight or four?

Mr. TAYLOR. In the case of our two lines, it would be 12 ships that are presently employed. The capital value of that as determined by the last outright sale that the Government had made of identically the same ships under restricted trading rights such as would apply in the case of this charter, was $50,000 a ship. That would amount to about $600,000.

Senator GUFFEY. How much did those ships cost the Government originally?

Mr. TAYLOR. What they cost the Government originally in 1918 was perhaps $250 per dead-weight ton.

Senator GUFFEY. What would they cost now?

Mr. TAYLOR. To build?

Senator GUFFEY. Yes.

Mr. TAYLOR. I don't know as to this particular type. The ships that the Government is building now, the new ones, run about $2,000,000 apiece.

Senator GUFFEY. How much is that a deadweight ton?

Mr. TAYLOR. I suppose about $60.

Senator GUFFEY. It is more than that, is it not? You cannot build a ship of that type today at $60 a deadweight ton.

Mr. TAYLOR. Pardon me. About $250 a deadweight ton. Of course, if it cost the Government $250 a ton to build them, the Government holds itself out to sell them at anytime for a substantially less sum than that by applying the construction differential subsidy to them. I imagine that that reduces their sales value.

Senator GUFFEY. Of course, it would.

Mr. TAYLOR. To as much as half of that figure. But, Senators, in the chartering of a ship, the charter price cannot depend upon the cost of construction of the ship, unfortunately. It can only depend upon its utility value and its earning power in the given trade in which it is to be employed. You cannot pay any more for the chater hire, certainly, than you can realize from operating the ship, so that the intrinsic value of the property itself has very, very indirect relationship to its charter value. The charter value even in unrestricted trading, would not be fixed by the American cost of construction, but will be fixed by the going charter rates, and the fixed cost of the foreign construction.

Senator GUFFEY. In these bids which were asked, did the advertisement give you the right to buy the ships outright?

Mr. TAYLOR. Yes, sir. They were alternate bids.

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Senator GUFFEY. You could buy them or charter them?

Mr. TAYLOR. Yes, sir; buy them or charter them.

Senator GUFFEY. What did it cost the Government last year to operate your two companies—the 12 ships? I mean the net loss to the Government last year?

Mr. TAYLOR. If you are willing to take the current returns as being the latest thing that we have the cost to the Government for operating the line was—from the ship's operations themselves—was just about $19,000 less for the year than it would be by awarding the operating differential subsidy that they offered to award under the proposal.

Our difficulty in not being able to bid was this: Nineteen thousand dollars a year of margin based on the current results is a very, very small factor of safety, when you consider that we would have during that period, $3,500,000 put at risk in amounts of $45,000 per sailing, for 52 sailings.

Senator GUFFEY. How do you have to risk $3,500,000 if you only have $250,000 invested? I do not see how you are risking $3,500,000 in 52 sailings. You may risk the gross income of the 52 sailings, but you do not risk $3,500,000, because you have only got $250,000 of your money invested, according to your own statement. What I am trying to get at is, where the Government is coming out financially. Whether it is cheaper to charter or cheaper to give them up?

Mr. TAYLOR. I think it is cheaper for the Government to keep them. But your question is a very shrewd one, and I can understand exactly what you mean. Before we had lost the entire $3,500,000 we would have gone broke long since, there is no doubt about that. What I mean to say is that everytime you sail a ship, and this requires us to sail one every week on the one line and every 2 weeks on the other, you have to sail the ship, and you have to incur the expenses of that voyage, which we will say average about $45,000. Naturally, we are doing business, so that the entire $45,000 is not lost. You get some revenue to apply against that. I was merely using $3,500,000 as a measure of the aggregate that is put at risk in these separate voyages, which may or may not turn in a marginal profit or a marginal loss, and out of the total of $3,500,000, I merely say that $19,000 is an awfully small margin of safety, and of course involves a very definite and desperate risk.

Senator GUFFEY. Pardon me. Go ahead in your own way. I am through.

Mr. TAYLOR. Even if it were so, we would have then only $20,000 to cover the cost of our shore organization that is necessary to perform the operation—the shore organization. That is again the same salaries and the expenses and so forth that we have ashore. That comes to the amount of $160,000. We would be then, on the basis of those estimates, about $40,000 short of what is necessary to pay out the bare running expenses. Being optimists, or else we would not be in the business as long as we are in the business, we might be willing to take a chance or able to take a chance, or might be able to advise our stockholders that things look so much better—although they do not—that we might be able to make up that difference, but here we have this peculiar factor, and that is that the proposal of the Commission as put out asks for bids on ships that they do not intend to use. They ask the bidders to bid on one set of ships by the

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names, that are now in service, and at the same time reserving to themselves the right of substituting the newly constructed ships when they are available for service, on terms which are acceptable to themselves and in accordance with existing law, and if the charterer does not accept that substitution, he will have to pay liquidated damages in the sum of 12½ percent of the subsidy that he has received to enable the operation.

Even on this basis, the liquidated damages will come to about $80,000. So that we would have $80,000 prospective liquidated damages, plus $140,000 overhead expense that is not being paid out of the estimates of the operation, and that is a total of about $220,000 apparent loss staring us in the face; and frankly, it is just a little bit too much for me to ask anybody to put their money in for that particular purpose. The particular jeopardy—and it has never happened before in any proposal—when we bid in 1937 we did not have to face that menace at least of substituting other ships than those you are bidding upon, and it is due to this fact, that as the law stands now, as we understand it, at least, it is that these newly constructed ships when they come out, that the Commission itself is bound by the act of Congress that they cannot accept a less charter hire than 5 percent of the American cost of construction, although they are willing to sell them at half of the American cost of construction. If the Commission is willing to pay the subsidy it would mean that we would have to face the contingency of paying $600,000 a year charter hire for those new ships, and that not being in the cards under any conceivable circumstances, we can only figure on the alternative, which would be to terminate the charter and pay the liquidated damages, and as I say, leave the net result nothing but a deficit.

Senator GUFFEY. Will the new ships be cheaper in operation?

Mr. TAYLOR. Very much so. Nobody knows, because they have not actually been in service, how much cheaper they will be in operation and how much more traffic they will draw, and how much they will improve the picture.

Senator GUFEY. What tonnage are the ships that they are building?

Mr. TAYLOR. The cubic tonnage is about 550,000 cubic feet against from 360,000 to 420,000 cubic feet that we have in the present ships. They will be magnificent ships; they will have more earning power.

Senator GUFFEY. What does it cost the Government to build that new type of ship?

Mr. TAYLOR. $2,000,000.

Senator GUFFEY. Under the present charter law, they can sell them to you at what price?

Mr. TAYLOR. They can sell them to us on the basis of the foreign cost, whatever that might be determined by them to be. I think that they can allow a subsidy against that cost of construction up to 50 percent in some cases, but it would be entirely their determination.

As I say, these new ships have everything; they are most attractive to substitute, and certainly I am all with the Commission in their desire to substitute them, and the only way we could be in the picture when that time comes, however, is that we know that

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even at the very most, that nobody can pay $100,000 a year charter hire for them. Not because that is unreasonable as to what they cost, but because it is unreasonable as to what they can earn. That is, of course, without knowing what they are going to be able to do, but allowing for a great deal of improvement that they will bring out in the present situation, they won't be able to improve it to the extent of that charter hire.

Senator GUFFEY. If you got them at that price and with the lower operating cost, that would be a help, would it not?

Mr. TAYLOR. Of course, it would. If we could get them at 5 percent of the subsidized cost, it would make all the difference in the world, but we cannot get them on that basis because the law won't allow the Commission to charter them at less than 5 percent of the construction cost.

Senator OVERTON. What will they do with the old ships?

Mr. TAYLOR. They would probably retire them from active competition, and use them in reserve for the national defense purposes. We could not, of course, take the gamble on bidding on these operating results, and figure then on having to pay liquidated damages of 12½ percent, because we won't be able to take the new ships and be able to pay 5 percent on the full American cost.

Senator BARBOUR. You operated these very lines, and probably know as much about the problem as anybody could know. You say you could not take a chance, the chances that you speak of. Do you think anybody else or any other line could afford to take the chance?

Mr. TAYLOR. That is a very, very sound question, Senator. In this particular case, the sole bidder, the United States Lines, can afford to take the chance for the reason that he would be able to dispense with the employment salaries, overhead, of our separate organization, because he already has one large enough and supported in part by the Government subsidies of $2,500,000 a year that he already receives, and by an overhead allowance that he already receives in operating the American Pioneer Line for the Government. On the same conditions that we would bid, he could simply dispense with our organization, absorb the operation in his present overhead with the slightest bit of marginal expense, and carry on through, and with the figures of the showing, he would have a fair chance to break even. The amount of his bid, I think, proves that fact as well as the fact of our inability on the same set of figures to bid at all, because the total amount that he has bid for the basic charter hire is almost identical with our overhead cost of organization. He would get that $168,000 to pay the Commission as the basic charter hire by the indirect dismissal of our employees, throwing them either out of employment or, as a remote contingency, into other employment, and it seems to me that that would be more or less trying to hoist one's self by their own bootstraps for the Government to throw people out of employment on the one hand in order to get the equivalent in charter hire on the other. They could afford to bid on figures that we could not afford to bid on.

Senator BARBOUR. May I ask you one more question, with the chairman's permission, because I am not a member of the subcommittee.

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Senator OVERTON. Certainly, Senator.

Senator BARBOUR. In your own opinion, and without bias, without the passage of this legislation, which has the approval of the House committee, do you feel that the United States Lines in the end would acquire the whole works?

Mr. TAYLOR. Without surmising at all, the bare facts of the case are that with the lines that the United States Lines is already operating and on which they are receiving $2,500,000 of operating subsidy now, with the addition of the three lines to those, they would in fact have all of the services on the North Atlantic that the Government subsidized, which makes simply a natural monopoly. You would not have to project on that, because that would be the inevitable effect of it.

Senator OVERTON. You mean everything north of Cape Hatteras?

Mr. TAYLOR. Yes. They would have everything in the shape of a Government subsidized service.

Senator GUFFEY. In the transatlantic trade?

Mr. TAYLOR. In the most important zone in which the foreign commerce of the United States and of that section moves.

Senator GUFFEY. When these advertisements were put out, did the United States Lines bid?

Mr. TAYLOR. They bid on all three lines.

Senator OVERTON. Did they bid for the purchase or for the charter?

Mr. TAYLOR. For the charter. There would be no inducement to bid on the purchase, because the ships are near the end of their economic life, and the bid itself indicates that the Commission proposes to substitute them with these newly constructed ships as soon as they come out, and presumably relegate the present ships to the laid-up fleet for reserve for use in national-defense purposes.

The question has also been raised, and very properly so, that if we have this business as close as we claim to, we ought to be in a better position to bid than the outsider. That would be absolutely true if the outsider were in the same position as we are; in other words, if he were a small Norfolk, Va., concern bidding, in which case we would have a natural advantage over him. We have no natural advantage, however, or any advantage, and in fact quite a disadvantage, in bidding against the United States Lines because of their entrenchment in the operations they already have, and the aid that they get from the Government which enables them to simply disregard, which we must regard, and that is the cost of paying our salaries as an independent enterprise, and in the end, it seems to me, it really boils itself down to whether the advantages of this basic charter hire that they bid of $160,000 a year, out of which, as I say, the Commission itself will pay one-half, because it is going to be deducted from their share of the profits, if any, or if on top of that, the efficiency of a large operation, which I do not for a moment admit, is a sufficient inducement to destroy private enterprise which has been brought into the business under the encouragement of the Government, to throw away what asset is represented by their goodwill, and which would be the only basis on which they would have any advantage in competing as the present operator, and I guess there would be very little argument left. I do think though, that

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there is a very strong argument in the public interest as to whether that is justified.

Senator OVERTON. We are very much obliged to you, Mr. Taylor, for your appearance. That is, if you have finished your statement.

Mr. TAYLOR. I think I have spoken long enough; perhaps too long.

Senator GUFFEY. Thank you very much.

Senator OVERTON. Admiral Land.

STATEMENT OF ADMIRAL E. S. LAND, CHAIRMAN, UNITED STATES MARITIME COMMISSION

Admiral LAND. My name is E. S. Land, and I am Chairman of the United States Maritime Commission.

As you know, Mr. Chairman, the Commission made a report on this matter to the House committee which is available in my testimony there, which I shall not repeat. There are certain pertinent things in connection with the bill now before you therein.

Senator OVERTON. Your report is on the original bill?

Admiral LAND. Yes, sir.

Senator OVERTON. As introduced by Senator Barbour, and as modified by the House committee.

Senator BARBOUR. I will correct the chairman if I may. My bill as at present, conforms exactly with the House bill.

Senator OVERTON. All of the objections that you lodged against the original bill, are they applicable in every respect to the bill as amended and as substituted by Senator Barbour?

Admiral LAND. They are not. They are applicable in a modified degree.

Senator OVERTON. Suppose then, Admiral, that you address yourself to the bill under consideration, disregarding the original bill, because I think that is the only business now before the committee.

Admiral LAND. I should like to first state that the Maritime Commission finds itself in a paradoxical position in opposing its own agents, because in both cases, these gentlemen are agents of the Maritime Commission. However, our first duty to the country and to Congress is to carry out the legal requirements of the act, and in so doing, we advertised for these ships in 1937, and the unanimous vote of the Commission was to reject all of the bids because they were not satisfactory as a general proposition. There may have been one exception to that, but the unanimous vote of the Commission was to reject them all.

We have a mandate from Congress, as we understand the act, to sell or charter these ships, and failing to do so, then we still have that mandate to do so at a time which seemed to be more opportune. That time arrived last fall, and the Commission announced that it was going to advertise for these ships, which it did, carrying out, as I say, what we understand to be the legal requirements of the Merchant Marine Act of 1936.

The opposition of the Commission is primarily one of principle. It seems to us that the American principles of government are to sell or charter property after advertisement and after obtaining competitive bids.

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Another objection is that the proposed legislation seems to be in favor of what might be termed special interests in contradistinction to the interests of all American citizens.

The Merchant Marine Act of 1936 was passed in June of that year. There has been, therefore, ample time to make modifications in the law, because it was then evident that the mandate of Congress was to dispose of these Government-owned lines. It seems a little bit too bad that this should come up here as an emergency matter in view of the elapsed time since the passage of the act.

The question was raised this morning with regard to the bids in 1937, as to why we did not accept the bid of the America France Line. One brief answer is that there were somewhere between 10 and 14 conditions in that bid as submitted, which is one of the reasons why the Commission unanimously voted to reject it.

The question of monopoly has been brought up, and we all agree that that is an objectionable term. The generic idea is opposed to American principles. No one has brought out the point that the whiphand is retained by the Maritime Commission in the schedules of these lines and the operation of the line and the number of ships that were on the line, and everything pertaining thereto; that if monopoly exists, it exists jointly with the Maritime Commission, and any successful bidder, whoever he may be.

In my judgment, we are not likely to run into monopoly as long as we have the tremendous amount of foreign competition with foreign flags that now travels the seven seas of the world to take away businss from the American merchant marine. I have not very much fear of monopoly on that score, and I realize what a tremendous job we have to keep anything like a fair portion of our shipping under the American flag.

The other point with regard to this is that it seems to be bad business to subsidize competing lines, no matter what the competition may be. It is difficult to know exactly what the Congress intended with regard to subsidizing two competing lines. We had the problem very definitely in front of us in one case, and reluctantly reached the conclusion that it was legally possible for the Commission to so subsidize, but it has not been done, and as a matter of policy we would regret if we ever had to subsidize two American lines, again for the reason that we have all of the competition and more than we can handle, with our foreign-flag competitors.

Senator GUFFEY. May I interject and ask you there, Admiral—it was not the intention of those who drew this act for the Maritime Commission to subsidize competing lines.

Admiral LAND. That is my belief.

Senator GUFFEY. I know something about it. If we made a mistake, I am corry about it.

Admiral LAND. We investigated all of that, and we reluctantly came to the conclusion that it was legally permissible to so do, although we felt that it was not so intended, and we felt that it was not good practice.

That has nothing to do with the proposal in front of us. In the annual report to Congress which the Maritime Commission submitted a short time ago, there is a break-down in appendix C of the results of operation of the Government-owned lines, July 1, 1937, to

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June 30, 1938. That answers a great many of the questions that have been asked here this morning, and it answers it in my judgment, very definitely and very concretely, and I should like with your permission to have that submitted for the record, because it covers the three lines under discussion as well as the American Republic and the American Pioneer, and gives the number of vessels, the number of voyages, the revenue, the operating expense, the allowance to manage. The total shows in a summary the operating profit or loss to the Maritime Commission for the fiscal year of 1937 and the fiscal of year 1938. That is page 39, appendix C.

Senator OVERTON. You wish that incorporated in the record?

Admiral LAND. Yes.

Senator OVERTON. It will be so done.

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APPENDIX C.—*Results of operation by Government-owned lines July 1, 1937, to June 30, 1938*

Managing agent	Trade	Number of vessels	Number of terms	Revenue	Expense			Operating profit or loss to U. S. Maritime Commission	
				Voyage total	Operating	Allowance to managing agent	Total	Fiscal year 1938	Fiscal year 1937
Cosmopolitan Shipping Co., Inc.: American France Line.	North Atlantic-French-Atlantic.	5	43	$1,626,622.74	$1,727,822.86	$139,509.63	$1,867,332.49	[1] $240,709.75	[1] $406,917.53
Southgate-Nelson Corporation:									
American-Hampton Roads-Yankee Line.	North Atlantic and United Kingdom and Continent.	8	21	1,183,865.51	1,405,411.79	70,825.20	1,476,236.99	[1] 292,371.48	[1] 492,310.93
Oriole Lines	North Atlantic and West United Kingdom and Ireland.	4	28	1,324,729.43	1,595,630.49	83,887.92	1,679,518.41	[1] 354,788.98	[1] 96,235.37
Total Southgate-Nelson Corporation.			49	2,508,594.94	3,001,042.28	154,713.12	3,155,755.40	[1] 647,160.46	[1] 588,536.30
C. H. Sprague & Son, Inc.: American Republics Line.	North Atlantic and South Atlantic east coast South America.	9	36	2,908,447.96	2,960,057.94	162,348.59	3,122,406.53	[1] 213,958.57	[1] 436,725.71
Roosevelt Steamship Co., Inc.:									
American Pioneer Line	North Atlantic-Australia		10	1,588,899.85	1,378,604.71	62,757.66	1,441,362.37	147,537.48	286,686.30
Do	North Atlantic-India		11	1,391,109.08	1,351,971.16	60,406.00	1,412,377.16	[1] 21,268.08	[1] 310,282.47
Do	North Atlantic-Orient		9	1,373,789.45	1,174,119.25	60,439.68	1,234,558.93	139,230.52	9,625.20
Total Roosevelt Steamship Co., Inc.		12	30	4,353,798.38	3,904,695.12	183,603.44	4,088,298.46	265,499.92	[1] 13,940.97
Consolidation of managing agents.			158	11,397,464.02	11,593,615.20	640,174.68	12,233,792.88	[1] 836,328.86	[1] 1,446,190.50

[1] Operating loss to U. S. Maritime Commission.

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Admiral LAND. That [appendix C] speaks more cogently than I can about the actual conditions, and gives you in those last two columns what the results are. I regret to state that it shows a loss.

Senator BARBOUR. Does this show any subsidy?

Admiral LAND. No, sir.

Senator BARBOUR. Then it is not exactly a parallel case, is it?

Admiral LAND. Not exactly; but insofar as we can determine, it will be more economical for us to charter or sell these lines and pay the subsidy than it would be to bear the loss that we are now bearing. A rough estimate of the annual improvement of that is around $250,000 better than is shown in those figures there. In other words, we feel that we could save about $250,000 per annum by chartering these vessels.

Senator BARBOUR. Plus a subsidy?

Admiral LAND. Plus a subsidy.

Senator OVERTON. That is for all of the 28 vessels?

Admiral LAND. No; I am speaking only of those under discussion here today. Sixteen vessels.

Senator OVERTON. The other 12 belong to the Pioneer Line—I mean, they are operated by the Pioneer Line, rather?

Admiral LAND. Yes. They are all our ships.

Senator OVERTON. How much saving would there be if you included the 12 ships that are being operated through the Pioneer Line?

Admiral LAND. I have not those figures here, but the savings would be somewhat greater, although the Pioneer Line is pretty nearly breaking even under present conditions.

You can look at that last column again and you will see that they happen to be the one line that is not costing very much to the Maritime Commission. If this line or if these three lines or any part thereof were taken away from Government operation and put under subsidy basis, there are certain advantages and certain disadvantages. The disadvantages have been thoroughly given to you by the two previous witnesses. Some of the advantages may be that this reduced overhead will obtain, and if you care to, I will speak specifically of the bid that is before the Commission, speaking without trying to give you all of the specific facts, but to give you the picture as we see it.

Senator OVERTON. I think that would be very interesting.

Admiral LAND. The United States Lines has the agencies, as a shore overhead, and has all the wherewithal that goes with an operating concern in most of the points that are under discussion in the operation of these lines.

It stands to reason and was very well brought out by the previous witnesses that with those existing agencies, their overhead would be increased by a very minor amount to take care of these operations. Therefore there would be an additional saving on that basis. So that from a plain business point of view, and that after all is what the Congress told the Commission to operate under—as a prudent businessman would—the saving to the United States Government would involve the saving as indicated from a subsidy point of view, plus the saving from the reduction in overhead, due to the fact that the United States Lines has the agencies and operating

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personnel in these various ports where these operations take place. And again I say that they cannot run away with anything here because the whip hand remains, by law and by contract, under the Maritime Commission.

The estimated saving, instead of being $250,000, would be in the neighborhood of $400,000 or better on the basis of this reduction.

The disadvantage, as I see it, is that some people will seek to operate at the expense of the Maritime Commission, and people will undoubtedly lose jobs, and some people may gain jobs. So far as the floating personnel is concerned, there will be no change. The Maritime personnel would be the same under either management.

Senator OVERTON. What percentage does the $400,000 represent of the total sum that would be expended by the Maritime Commission in operating subsidies? Can you give some rough estimate?

Admiral LAND. I could not give you that from my head, no sir. I could get it, and I will be glad to put it in the record. I could not do it now with any degree of accuracy.

Senator OVERTON. I did not want to interrupt you.

Admiral LAND. That is practically all I have to say, sir. I have no brief on this except to carry out the mandate of Congress, to obey the law, to attempt to administer our affairs as a prudent businessman would, to attempt to do a businesslike job to the best of our ability, which unquestionably in many ways is limited, and I realize the hardships that may come to some others in our following this out, but after all, we have to do our duty as we see it, and if we are in error, then the laws will have to be changed; but it does seem to us that we should carry this out, and when we attempt to carry it out, it seems rather late in the game to come now in a proceeding that Congress in its wisdom legislated on 3 years ago.

Senator OVERTON. How long has the Maritime Commission and its predecessor been endeavoring to dispose of these eight ships?

Admiral LAND. I can only speak from the time that I have been on the Commission. We endeavored to do it in 1937 and we endeavored to do it now. This is the second effort of the present Martime Commission. There were other efforts which were brought out this morning and this afternoon, but I was not cognizant of the reasons of their failure, nor the details that led up to them.

Senator OVERTON. In the 1937 bidding a great many bids were received in reference to each line? Were they competitive bids or was there only one bid with respect to each line?

Admiral LAND. In some cases there was only one bid received, and in some cases there were several bids received. I could furnish the complete list, but again I would not attempt to give you the details except in that statement that in some cases there was only one bid and in some cases there were several bids.

Senator OVERTON. Was the bidding confined to the agent that operated the ships?

Admiral LAND. No, sir.

Senator GUFFEY. Anybody could bid?

Admiral LAND. Anybody could bid, just the same as now. Since that time, it might be well to add that we have disposed of one of these lines. The *American Republic* was advertised and is under charter.

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Senator GUFFEY. Whose bid was that?

Admiral LAND. Moore & McCormick.

Senator GUFFEY. Were they the people that operated it before, or different people?

Admiral LAND. Different people.

Senator OVERTON. Those bids were rejected, you say, because there were different conditions attached to the bid?

Admiral LAND. Just speaking generically, the Commission was unanimous in rejecting the bid as being unsatisfactory.

Senator GUFFEY. That was the 1937 bid?

Admiral LAND. Yes, sir.

Senator OVERTON. Were those conditions responsive to any proposal made by the Commission, or were they entirely independent of the proposals made by the Commission?

Admiral LAND. No. Those were generally responsive to the advertisement to the bidders at that particular time.

Senator OVERTON. But the conditions imposed were unsatisfactory to the Commission?

Admiral LAND. The conditions, and in some cases they were unsatisfactory and the bids themselves in some cases were unsatisfactory.

Senator OVERTON. Were there any bids for the actual purchase of the ships, or were they all confined to the charter of the ships?

Admiral LAND. All confined to charter.

Senator OVERTON. If the United States Lines bid should be accepted, to which you refer, it has been stated here that the United States Lines would then control practically all of our subsidized shipping up to Cape Hatteras on the Atlantic Seaboard and engaged in foreign commerce. Is that correct?

Admiral LAND. Not entirely correct, no, sir. The Moore & McCormick operated line is subsidized. The Black Diamond operates a line which is not subsidized, and of course you have got to be restrictive as to your geography, and the statement is still further inaccurate. If they are moving from north of Hatteras and to European ports north of some point in France, that would be generally correct, with the exception that the Moore & McCormick Lines which operate from Baltimore is operating. Of course, in the Mediterranean, we have the Export Line which is subsidized, and further than that, we have the Sea Lines on the African coast, and the subsidized American South African Line.

Senator OVERTON. It has also been stated that when you advertise for competitive bids and they are received, that before you can intelligently act upon them, as I understand it, it is necessary for the Commission to sit around a table and enter into negotiations with the bidder or bidders in reference to the various items. Is that correct or not? After the bids have been received, are negotiations necessary?

Admiral LAND. That is a difficult question to answer either yes or no. Normally, when bids are received on anything that comes before the Commission, we try to refrain from having anything to do with the prospective bidder until the staff has made up its mind what they will recommend, and in some cases I think the Commission is actually ready to take action on the matter. There are cases, however, in which some points would be subject to discussion, and if so,

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we would invite the party concerned to discuss it. The question is incapable of a yes-or-no answer, depending altogether on the circumstances.

In this particular bid, it seems to me it would be quite within the realm of propriety to refer this to the staff, which has been done, and for the staff to report to the Commission, and it expects to make its report next Tuesday, and the Commission might take action without ever consulting anybody. I don't know that that would be done, but that is quite possible, and certainly in ship contracts, we frequently do that, and I personally object to having somebody coming in on the ex post facto basis of trying to tell me what to do about it. So that is an option and is not the fixed rule.

Senator GUFFEY. Admiral, is the bid as submitted by the United States Lines sufficiently clear and ample so that you could accept or reject the bid if satisfactory without further negotiations?

Admiral LAND. I think that is quite true in this case.

Senator GUFFEY. In other words, your advertisement covered every angle of it?

Admiral LAND. We tried to, and we went into great detail, as is evident by the House report. It of course is a complicated matter, but I think it would be quite possible for the Commission to accept or reject that bid without any interviews of any kind whatsoever with the prospective bidder. I am not sure that that is correct. Do you think that that would be possible?

A Voice. Yes, sir.

Admiral LAND. There is the man that has to analyze it, and he says that it is possible. He is the key man that makes the report for the staff.

Senator OVERTON. Admiral, you very correctly and properly stated that in advertising for bids you were carrying out the mandate of Congress. And Congress has declared it to be the policy of the Government not to charter or sell these vessels except upon competitive bidding. But independently of all of that, independent of what action Congress may have taken, and of the general and accepted rule of the Government that Government property should only be sold under competitive bidding, as a practical matter will you venture the opinion whether or not the Maritime Commission could get better results by sitting down and negotiating with the present agents operating these ships with a view—and not only with them, but with other interested lines—do you think that you could get better results than by advertising?

Admiral LAND. Well, so far as the greatest good to the greatest number, I think you get better results by advertising. I think any time you attempt to negotiate, you bring in personalities, you bring in preferences, you bring in prejudices, and to use a very common but very pertinent term, you bring in chiseling. We are all human beings; we are all vulnerable in one way or another. Negotiating by a Government body has not been the principle laid down by the Constitution nor by the Congress, from time immemorial. There is not any doubt in my mind, to answer your question fulsomely, that I could go out with somebody that was not as bright as I was and beat him to it and get a better price, but if the other fellow is brighter than I am, he will probably beat me, and the Government too. It is a question of David Harum and being on a horse-trading basis.

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I would like to cite one example which is in the law, just for the benefit of you gentlemen here. Last year you amended the law permitting negotiations on ship contracts, with particular reference to the west coast. I give you my word, because I conducted the negotiation. It took me 6 solid weeks to award two ships. My time is not worth so very much, but that is too long to get two ships under contract, and it had to go clear to the President of the United States. I don't think that is a good way to do business.

Senator OVERTON. Admiral, do you consider that the present time presents a favorable opportunity for the sale or charter of these vessels, or do you think that we should wait for a more favorable opportunity? Or is there any favorable time for the disposition of ships?

Admiral LAND. Senator, the present time is slightly more favorable than 1937. To say that this is a favorable time to present anything that requires new money, particularly in shipping, I would say no, it is not. When that favorable time may come I am unable to state. All I can state is that it is more favorable than it was in 1937. We have received, after proper advertisement, what seems to be a reasonable bid. If that should be carried out, the Commission would feel that it was doing its duty by the country and by the Congress, besides doing its legal duty. I may be wrong about that. This has not been discussed by the Commission; I am merely showing you the picture as it presents itself today.

So that as to the time, whether it is more favorable or less favorable, I cannot answer except to say that we seem to have in front of us a reasonably satisfactory bid for the disposition of two lines on one bid and three lines on the other. There are two bids. There are two alternatives in the United States Lines' bid. It seems to be a reasonable bid, and it does permit the Commission, should it be carried out, to dispose of three of these lines. We have disposed of one of them, and the advertisement for the fourth one will go forth too, I trust, within a week, and we may be out of Government operating which, as I understand the law, is what you told us to do.

Senator OVERTON. What impresses me is, that after all, you got only one bid.

Admiral LAND. That is right.

Senator OVERTON. And it may be a satisfactory bid.

Senator BARBOUR. It is also the lowest and the highest bid?

Admiral LAND. That is right.

Senator OVERTON. Should there not have been other prospective bidders? I am asking you for information because I know very little about all of this. I stated to the committee the other day that I hoped that there would be no mourning at the bar of the committee when I went out to try to help solve his problem. Ordinarily, it seems to me, there would be quite a number of bids.

Admiral LAND. But you have not studied these figures.

Senator OVERTON. No; I have not.

Admiral LAND. I am sorry to say that they are tinged with red. It is perfectly correct what these gentlemen have said here—much of it is quite factual. They are in our hands and they are dependent upon us. They cannot see their way clear to put in a gambling bid for this, with the idea that they may have losses. The indications are that they stand a fairly good chance of that, and one of them

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very properly brings in a very, very good subject. I am sorry that the whole committee is not here, because I would like to get your advice myself, if you have any time to bear with me.

Senator OVERTON. Of course, we could amend this bill in any way we desire. We could tell you to continue with the operation of the ships with the present agents or other agents under the control of the Commission, until a more opportune time might arise, but if that is a forlorn hope, there is no use for us in indulge in that speculation. You are operating in the red, as I understand it, and have always been since you have been connected with the Maritime Commission, and I do not say that in any criticism of you, but your predecessors, too, were operating in the red.

Admiral LAND. These ships are getting older, and their operating cost and their maintenance cost and their repairs are constantly getting greater and greater and they are constantly becoming less and less efficient. I do not see that they are going to be much more attractive a few months hence.

Senator OVERTON. How much longer could they be operated?

Admiral LAND. You have had the benefit of the testimony of the gentleman who preceded me. I think he said 5 years. There is not any doubt in my mind that those ships will be able to what we call "mote" for 5 years more, but they are increasingly expensive from year to year, and their operating efficiency is decreasing from year to year.

Senator GUFFEY. Admiral, do you agree with this statement? As I see it, the only way of getting a higher price for these ships or getting more out of them is in the case of a world war?

Admiral LAND. I do not want to prognosticate more than 6 months ahead. The value of ships is not high today, even in a foreign market. They are a little better than they were, due to the unsettlement throughout the world. If you anticipate any kind of a conflagration, East or West, there is no question but what anything that floats is going to be very materially enhanced in value.

Senator OVERTON. If we have no war and these ships are chartered and new vessels that are being constructed are substituted, what will be done with the old vessels?

Admiral LAND. There are two methods of handling these old vessels. One would be to utilize such portion of these vessels in initiating a freight service in the Pacific Northwest. There may be other contingencies arise which would make it seem advisable, if it is necessary, for the Commission to utilize vessels—one or two of them—in other parts of the world. Beyond that, their proper place is in the fleet reserve, and from there, from time to time, they should go to the scrap heap, being, until they go to the scrap heap, a war reserve to be laid up with the laid-up fleet at Hampton Roads and New Orleans.

Senator OVERTON. These gentlemen who represent the ship operators have made the complaint that it is rather difficult for them to respond to the advertisement suggested by the Commission, by reason of the substitution of these new ships, because they do not know what burden they would have to bear, and they don't know what allowances they will have, and it is a very uncertain thing and just adds to

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the complexity of the whole situation. What have you to say in reference to that?

Admiral LAND. I have great sympathy for their statements in that regard. There is no question but what they have something on their side. I grant that.

Senator OVERTON. Let us get the Maritime Commission's side of it?

Admiral LAND. I was just going to add, there is somebody who is willing to take that chance. It is either up to the Maritime Commission to go, as you suggested a moment ago, and to continue this operation which is to say the least uneconomical, or to dispose of them to somebody who has—call it what you like—courage or a gambling spirit to go ahead and submit a bid and give us an opportunity to comply with the law and get rid of the ships. We would like to get rid of them.

Senator OVERTON. You think it is good policy on the part of the Government to provide substitution for the old vessels with the new vessels as they are completed?

Admiral LAND. I certainly do. I think it makes it much more difficult for the prospective bidder, but nevertheless that is the condition and that is what we are facing here, and again we are carrying out to the best of our knowledge, just what is required by the statutes, in our advertisement.

Senator GUFFEY. That is what we wanted you to do.

Senator OVERTON. After you have substituted these 28 ships, assuming that they will all be chartered or sold, the Maritime Commission will continue to build ships?

Admiral LAND. Yes.

Senator OVERTON. What will become of those additional ships? In what services will they be put? If I am asking you any embarrassing questions, you need not answer.

Admiral LAND. I am not embarrassed, but I am not a prophet.

Senator OVERTON. It is anticipated that we will launch about how many ships a year?

Admiral LAND. The Commission's long-range program is 50 ships a year for 10 years.

Senator OVERTON. That is 500 ships?

Admiral LAND. Yes.

Senator OVERTON. What are we going to do with the additional 472 ships?

Admiral LAND. To my mind, the answer to that is very simple. We have in the United States merchant marine about 1,450 ships. On the basis of 2 new ships being worth at least as much as 3 old ones, we need, in the American merchant marine, a minimum of a thousand ships, so that 10 years at 50 ships, which would be 500, or in 20 years a thousand ships—and 20 years is the life of a ship. This country is faced with the proposition of building every year 50 ships, and it becomes a rotary proposition on the basis of a simple rule of arithmetic.

The old ships go out of commission because they are obsolete, just like your car becomes obsolete after a certain length of time.

Senator OVERTON. You do not expect to put the new ships into new or additional service?

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Admiral LAND. I am talking about the minimum. I am talking about what you gentlemen call a replacement program. You have directed us to have, for the American merchant marine, sufficient ships to carry a substantial part of our commerce. We cannot do it on this minimum. The facilities of the country, and the condition of the Treasury, and the policy of the Commission are such that we took the minimum. If conditions permit, if private capital goes into this program, it is always my optimistic hope that we may increase this 50 ships a year, so that we will not only carry on with the essential lines now, but looking some time in the future, the American Government will be able to go out and obtain the traffic which is its due, both passenger and freight, in such routes in the world that the law directs us to cover. Some of them would be covered at a loss. That is in the bill.

Senator BARBOUR. Could you operate those increased lines?

Admiral LAND. I cannot answer that specifically because I would have to prophesy. The law says, if I might have the privilege of interpreting it, that you should build in the American merchant marine, privately operated if you can and Government operated if you must. Who are going to operate these ships, I am unable to tell you. We are always hopeful that private capital will at some time in the near future be able to come in and take over these new ships. We have some indications that that may obtain. We have some definite indications that the ships which the Commission has built will be purchased, chartered, or both, as they are finished and put in operation, so that the picture, while not too promising for a complete private operation, has certain elements of hopefulness in it of private operation; but failing in that, until the law is changed, the Commission must go ahead and upbuild the Amercan merchant marine even if it has to do some Government building and even if it has to do some Government operation.

Frankly, I am opposed to both of those, but I am in the position where I have to do what the law says we have to do, whether I believe in it or not.

Senator OVERTON. The purpose of my attempting to elicit that information from you was to ascertain whether or not it was absolutely necessary to provide for the substitution of these new ships for the old ships in the present proposed charter contracts.

Admiral LAND. In my judgment it is.

Senator OVERTON. As I understand you testimony, you agree with the ship operators that it is objectionable in the sense that it is a very uncertain equation which is introduced into the bidding, and I wanted to see if the ships could be offered without the proposal to substitute new ships for the older ships.

Admiral LAND. I do not think so. I think you definitely brought out that yourself when you asked them if it was not more efficient to operate new ships, and they answered that it was. Nobody but God can tell you whether you can make money with a high-capital-cost and low-operating-cost ship, or a low-capital-cost and high-operating-cost ship. I thought you brought that out very plainly yourself, and I do not think I can add anything to that.

Senator OVERTON. I do not think I have any more questions.

Senator BARBOUR. I have one or two questions which I should like to a with the chairman's permission, and I would like to interject

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right here that I think that we are all very fortunate that Admiral Land is entrusted with the very difficult responsibility that he has very ably and effectively performed and is performing. I have great admiration for him and great respect for him. You spoke in your testimony, Admiral, I believe, about monopoly and, in reference to that, the impossibility of their being monopoly because of the foreign competition. That, of course, is so, but our reference to monopoly was the monopoly among the American operating subsidized lines in that area. That particular monopoly, and not a monopoly in relation to all the other countries. That is the monopoly that has raised its ugly head in this connection; whether it is avoidable or not. I am not saying it in any insidious way. Addressing this subject as a public one primarily, do you feel that the present operating organizations have any value to the public, the ones that would pass out of existence in the event of these awards which have been advertised, being made to others? Would that be a fair question to ask—would the loss of that organization and with its experience—would that be academic or would that be a loss to the public?

Admiral LAND. I think unquestionably there would be some losses, yes; there is no doubt about that. It would be compensated for, presumably, from an economic point of view by a reduction in cost to the United States Maritime Commission, and in turn to the taxpayers of the Government. That is a question of just good business judgment, whether you should distribute this at a greater cost or concentrate it at a lesser cost. It is a question of the over-all efficiency.

Senator BARBOUR. I have a couple of more very short questions. Has the goodwill created by the present operation organizations any real tangible value, because I see it, that goodwill certainly will be lost in the transfer of management.

Admiral LAND. Of course, goodwill in any going business concern has value. As you know better than I do, it is valued anywhere from a dollar to $10,000,000, depending upon the organization which you may be discussing. There is a lot in what you say, but on the other hand there are similar offices and there are similar organizations that cover somewhat the same territory, both here and abroad, and it becomes an economic question of the over-all efficiency, or the question of outgo and income as to which is the most meritorious from the taxpayers' point of view rather than from a local point of view.

There is not any question in my mind that so far as the distribution is concerned, it would be a far more happy solution if you had a main office in all of the so-called outports rather than concentrate a given office in the city of New York, for instance, but there again, there is an awful lot of sentiment on that, and you cannot run the Maritime Commission on sentiment and you cannot run a successful business operation on sentiment. You have to give some consideration to over-all efficiency and to whether you are in the black or whether you are in the red.

Senator BARBOUR. That question really relates to the first one I asked, Mr. Chairman, and that is the monopolistic phase of the matter, and I think that has been sufficiently covered.

Senator GUFFEY. Admiral Land, in looking at section 706 as amended, I notice it starts with the words "Except as otherwise provided in section 704 of this act as amended." Do you agree with me

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that as so written, all of the provisions as to competition, competitive bidding for charters, are rendered useless and have no meaning?

Admiral LAND. I do not think I quite understand your question.

Senator GUFFEY. Section 706 provides: "Except as otherwise provided in section 704 of this act as amended." Do you agree with me that that renders all competitive bidding for charters and vessels of no meaning?

Admiral LAND. It seems so to me.

Senator GUFFEY. If section 704 applies to all vessels the Commission now has or may acquire hereafter, to what vessels would the competitive bidding for charters apply? Would it not apply to every vessel?

Admiral LAND. I think so. I seems so to me.

Senator GUFFEY. I have finished, Admiral.

Senator OVERTON. Senator Bailey desired to ask you some questions, and he cannot be here this afternoon and he suggested that we recess until 11 o'clock in the morning. Would that be aggreable to you?

Admiral LAND. Yes, sir.

Senator OVERTON. He will then have an opportunity to question you.

Mr. TAYLOR. Mr. Chairman, before adjournment, could I be indulged for not more than 1 minute on a point that involves the element of personal privilege?

Senator OVERTON. Indeed.

Mr. TAYLOR. I am sure Admiral Land would not want to leave with you an impression about the accuracy of any of my statement if it were based upon something that I did not quite say. The statement that I made in regard to the negotiations being necessary in connection with these bids was that in order to determine the return to the Government for the use of the ships and take into consideration the other factors that affect that return, negotiation would necessarily follow even after the award under competitive bidding the same as if you determined whom you were going to negotiate with by drawing numbers out of a hat. You could determine whom you were going to negotiate with, but in what he is going to return to the Government for these ships, you would have to also determine not only the basic charter hire by the operator's overhead and capital expense. That is the only statement that I made, and I did not want you to feel that I was going further than the facts as I understood them.

Admiral LAND. I understood that.

Mr. TAYLOR. And I tried to carefully delineate the scope of these services that would become thus monopolized as American subsidized services in the hands of the United States Lines if this award were made to them, and I think on checking it you will find that that is literally correct. Probably you can add to the record the information that the Senator wanted without putting the Admiral to the trouble of furnishing it by leaving in the record the hearings before the independent office appropriations bill, 1940, on the House side, in the matter of the United States Maritime Commission's appropriation, referring specifically to page 866, which states the operating differential subsidies for the fiscal year 1940, that, by the Government estimates, it will give to these presently Government-owned lines as

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subsidy, in the event that they were chartered for private operation, these figures. Those figures should be compared with the present operating losses as shown in the appendix C which the Admiral has introduced. The operating subsidies would be sustituted for these, and would be in the case of the America France Line $271,600, and in the case of the American Hampton Roads-Yankee Line $906,500, and in the case of the American Pioneer Line $817,200.

In connection with appendix C, it will be noted that the American Pioneer Line is now earning an operating profit which accrues to the Government, and, if that were transferred to private operation, they would receive in addition $817,200 a year in the form of an operating subsidy, and presumably that would be taken into consideration in determining the value of their competitive bid on the basic charter hire.

Admiral LAND. May I make a comment on that?

Senator OVERTON. Surely.

Admiral LAND. My only thought is that in bringing up the Budget figures, where I was also the principal witness, those were estimates made sometime ago. The figures in the bluebook in our annual report, appendix C, are the final figures.

Mr. TAYLOR. That is unfortunately so, because I noticed in the subsidy, according to the percentages that were given to the Appropriations Committee, in the case of our two lines, they were about $300,000 less than your original estimate to the Appropriations Committee.

Senator OVERTON. We will meet again tomorrow morning at 11 o'clock.

(Whereupon, at 4:20 p. m., a recess was taken until the following day, Saturday, February 25, 1939, at 11 a. m.)

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TO AMEND THE MERCHANT MARINE ACT OF 1936, AS AMENDED

SATURDAY, FEBRUARY 25, 1939

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON COMMERCE
ON MERCHANT MARINE,
Washington, D. C.

The subcommittee met, pursuant to call, at 11 a. m. in Commerce Committee room, Senate Office Building, Senator John H. Overton presiding.

Present: Senators Overton (chairman), Bailey, Guffey, White, and Vandenberg.

Senator OVERTON. The committee will come to order. Admiral Land is here to answer any further questions that the committee desires to ask of him.

STATEMENT OF ADMIRAL E. S. LAND—Continued

Senator BAILEY. Admiral, if this bill becomes law and negotiations are made for sale or charter, would you have lines that would be subsidized in competition with each other?

Admiral LAND. If this bill becomes law and negotiations are made for sale or charter it would undoubtedly include the subsidy, so that you would have lines competitive to a degree, particularly out of New York, that would be subsidized; yes. Just what degree that would be is a little difficult to determine, depending upon any realinement that may be made, but that is in the picture of dual services, both subsidized, certain parts of which are duplicating efforts.

Senator WHITE. What difference does it make, Admiral, whether you have two services somewhat competitive, both subsidized, and whether you have two services, one subsidized and one run at a cost to the Government, more or less competitive with each other? What is the practical difference?

Admiral LAND. I did not understand the second half of your question, Senator.

Senator WHITE. You spoke of two services. I did not know what two you had in mind.

Admiral LAND. Specifically they would be the United States Lines and the America France Line. They are competitive to a degree.

Senator WHITE. And I understood you to have some question as to the wisdom of having two subsidized lines in the same degree competitive.

Admiral LAND. I think that is very doubtful wisdom.

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Senator WHITE. I say what is the difference between having two lines privately owned and privately operated, both subsidized, and having two lines, one privately owned and subsidized, and the other governmentally owned but still operated in competition and maintained at a loss by the Government? What is the difference to the Government?

Admiral LAND. There is no difference there. The only idea is to attempt to change this so it would be more economically run. It is evident to us from our figures, in our judgment, that there would be less losses if these were privately owned and operated than there would be the way they are being run at the present time, and those are part of the figures that I gave yesterday. The rough estimate was, we thought there would be a saving of around $250,000 per annum by chartering these lines and subsidizing rather than operating them as managing agents.

Senator WHITE. Chartered to whom?

Admiral LAND. To anybody that would take them. In this specific case, the United States Lines. There would be an additional saving by the operation of the United States Lines due to a great reduction in overhead. As brought out by the previous witness, the United States Lines have agents and officers in their set-up already for their operations and they would absorb these more economically than they could be run independently by ourselves or managing agents, or possibly by some other people.

Senator WHITE. Let us assume that is so. Let us assume that this America France Line ultimately finds its way through sale in the control of the United States Lines; of course, to that extent you have a concentration of ownership. Well, now, what are you going to do with these other lines that cover somewhat the same range, that cover the north European range, anyway, which from what you are now saying, leads you to favor permitting the United States Lines also to acquire them?

Admiral LAND. So far as acquiring the operation, so far as the taxpayers' interest is concerned, the answer would be "yes"; they would be more economical to the Government, due to the fact there would be considerable less overhead to budget on account of the offices, and so therefore there would be united operation rather than divergence of operation. So that the net saving would be on the basis of about $250,000 a year. Including the subsidy and the overall saving it might go as high as $400,000 a year, due to a reduction in overhead of the offices, and what have you.

Senator WHITE. I think that probably is all true, but that runs you right up against the question as to whether the original policy in the 1920 act of having the services serve the different ports owned by the local interests and backed by local capital, and all that thing—whether that is sound or whether we are going to reject that theory.

Admiral LAND. We would not reject that theory, Senator, because these are not owned by local interests; the local interests have no money in them, as they belong to us.

Senator BAILEY. Did they ever own them?

Admiral LAND. Not these ships.

Senator BAILEY. They have no vested rights then?

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Admiral LAND. That is true. These ships were never owned by them. As I said yesterday, this question of monopoly might as well be discussed bluntly in the open. It is in the complete control of the Maritime Commission, because we set the schedules, we are running the ships, and you have to have all of the sailings and all of the port interests taken care of with our approval.

Senator BAILEY. They are competitive with every nation on earth.

Senator GUFFEY. What is our tonnage in the trans-Atlantic trade compared with the competitive tonnage?

Admiral LAND. It is very small.

Senator GUFFEY. We do not have 10 percent, do we?

Admiral LAND. I think we had 10 percent.

Senator GUFFEY. It is very small?

Admiral LAND. It is very small, no question about that.

Senator WHITE. I never was completely sold myself on the theory that was written into the 1920 act.

Senator GUFFEY. Was not the 1920 act repealed by the 1936 act?

Senator WHITE. Not this part of it. I never was sold on the theory of the 1920 act. I guess at one time we must have had 70 or 80 or more of these small shipping units trying to sustain themselves in the most competitive trade in the world, the overseas foreign trade, and I never believed we could ultimately prevail and get anywhere with units so small as that. You had the Cunard-White Star combination, you had the Hamburg-American, you had the French Line with more tonnage under a single ownership than we had in our whole foreign trade, with all this diverse ownership and control. I never could see it myself, but that is what the act had written in it just the same.

Admiral LAND. As I stated yesterday, we haven't much fear of monopoly in foreign commerce because of the fact that we get all of the competition, and more than we can take care of, with foreign flags.

Senator BAILEY. You can govern the coastwise trade?

Admiral LAND. We can govern the coastwise trade, because it is a protected trade.

Senator BAILEY. I want to ask you a question in the light of the testimony that interested me very greatly yesterday. The final statement, as I recall it, of the witness from Baltimore, the first witness, as to the real purpose in view of this legislation was to allow him and those classed with him to sit down with you and negotiate, and, amongst other things, negotiate for higher allowances. Now they did not bid this time, but they come in and frankly say what they want is a chance to negotiate, in view of the higher allowances asked for from the Maritime Commission. What about the allowances? Are they satisfactory now?

Admiral LAND. I think the gentleman you mentioned testified to the fact that the percentage allowances for his line and for the other lines had been reached as the result of very careful investigation and research on the subject, and while they are not exact, and it is impossible for them to be exact, my understanding from his testimony and my own belief is that the allowances are generally satisfactory. I think what he referred to, and which is referred to very definitely

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and specifically in his letter to the Commission, is the question of countervailing subsidy, which is one of the most difficult, complicated, and almost impossible problems to solve that the Commission has before it now, or that the Congress had before it when it considered the subject.

Senator OVERTON. I do not understand the countervailing subsidy so well, and I would like some little more information, while you are right on that point.

Admiral LAND. Seeing it is just a controversial and difficult subject, I might not be able to define it. I will attempt to do so. Countervailing subsidy is, in its simplest language, matching dollar for dollar by the United States Government with any subsidy that may be granted by a foreign competitor as a subsidy, and those subsidies throughout the world run almost every possible gamut that you can think of, from release of port dues to loans at low percentages, right up to direct gifts.

Senator WHITE. It is a subsidy in addition to the operating-differential subsidy; it is something that is additional, in order to meet subsidies in whatever form they may be clothed by other nations?

Admiral LAND. That is right. It is the national subsidy in contradistinction to an operating subsidy, which is a parity proposition to put an American operator on the same basis as his foreign competitor with regard to the [illegible] enumerated in the act—wages, food, insurance, maintenance and repairs.

Senator BAILEY. All right. Now going back to the line of my questions: Would the operator, or others, be likely to get different allowances from those which are now obtained if we opened this thing up again?

Admiral [illegible] er doubt it, so far as operating subsidies are concer[illegible] because we do not actually negotiate them. We get ev[illegible] our agents, and they get evidence from their agents [illegible] evidence that we can to determine this operating [illegible] on that basis, by weighted formulas, arrive at a re[illegible]sion.

Se[illegible]ere is a bid in a certain base; that is, the existing [illegible]uld pass this legislation, would it not be a matter of [illegible]ness under the law that you should give every o[illegible] a chance at different allowances? You do not i[illegible]rivate negotiations for special allowances, do you?

[illegible] I should hope not.

[illegible]. Is not that what seems to be implied?

[illegible]. I think it is. I think there is considerable mis[illegible] of the term "negotiate." I am not able to define it, [illegible] negotiation is something, when you have a contrac[illegible] front of you, and it reduces itself primarily to beating [illegible]ing up a price.

BAILEY. Does it not come to this: As the matter now [illegible] have an opportunity to go ahead and operate on the allow[illegible]ey are, you have a bid that you can accept; but if we pass [illegible]ion then you have got to give somebody a second break [illegible]ery, with a view to different allowances than those which [illegible]ly accepted in this bid. Is not that what you have got?

[illegible]LAND. In the specific case of the America France Line, [illegible] doubtedly be the case, because they definitely raise

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this countervailing subsidy point, and it is something that the Commission has never settled on a single ship line to date, and we have been fussing over it for 1 or 2 years. There is just as much difference of opinion in the Commission staff and the Commission itself as there was up here on the Hill. Just to bring it up to date, the thing was discussed on the floor of the Senate last year and very definitely tightened up in that it required the vote of five Commissioners and the approval of the Secretary of State, making it much tighter than the original law.

Senator BAILEY. You do not contemplate in the Commission a different set of allowances to one operator from those that you give to another operator, do you? The preference does not imply that?

Admiral LAND. Not on a specific line; no, sir.

Senator BAILEY. Is it not a fundamental principle in America, Admiral, that the American people are entitled to equality under the law?

Admiral LAND. That is my understanding; yes, sir.

Senator BAILEY. I am satisfied if you gave my friend Senator White a new set of allowances, you would have to give me a new set. If the housing institution built a house down yonder and charged one man four and another man six, you would have a row right off, and a very just one. Both are entitled to four. Now, you have got your ship institution here; it is a public institution, and there must be equality to start with. Is not the object here to upset the rule of equality and interpret this word "preference" by way of allowances by private negotiation different from those which have already been accepted in the bid? Am I right about that?

Admiral LAND. Your understanding of the matter is exactly the same as my own; yes. I have to answer "yes," in the affirmative, because I see nothing else to do than just what you have explained there. Putting the burden of proof on the Commission to interpret and define the question of preferences, or to interpret and define how far negotiations should go, and if there is a controversy, why, we would just carry it along for an indefinite period of time, making an unsatisfactory solution to some, then throwing it in the lap of Congress, after we get through with it in accordance with law, where it might open up a jackpot and it might never be looked at at all.

Senator BAILEY. The witness from Baltimore for the America-France Line testified yesterday as to the gross receipts. He went into the revenue for tonnage carried and, I take it, passengers, too.

Admiral LAND. No passengers on this line, Senator.

Senator BAILEY. Just the tonnage. He did not testify as to the expense. Can you tell me what the expense was?

Admiral LAND. Well, there was introduced at the end of my testimony, appendix C, page 39, of the annual report of the Commission to the Congress, which shows in fairly condensed form all of those lines, the top one being the America-France, for the years 1937 and 1938. As to the losses, if you will notice the last two columns, you will notice, with the exception of the American Diamond alone, they are all losses.

Senator BAILEY. Was not the revenue paid to you $1,626,000?

Admiral LAND. Yes.

Senator BAILEY. That was paid in to the Commission?

Admiral LAND. Yes.

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Senator BAILEY. Then you paid out on operating $1,727,000?

Admiral LAND. Yes.

Senator BAILEY. Then you allowed to the managing agent for overhead $139,500, or a total of $1,867,000. Then you had an operating loss in 1938 of $240,700, and an operating loss in 1937 of $406,900. Have I read those figures correctly?

Admiral LAND. That is right.

Senator BAILEY. Now in your new bid have you any assurance that you will save money?

Admiral LAND. Yes; we have considerable assurance.

Senator BAILEY. What is your assurance?

Admiral LAND. It is based on the investigation of figures and the estimates, and what we believe the subsidies will be, and the net result is that on these three lines we would anticipate a net saving of around of $250,000 per annum, with the possible saving due to saving in overhead on the United States Lines, where it might be as high as $400,000 to $420,000 per annum, because they already have offices, they already have all that goes along with ship operation in most of the ports that are being served by these lines, not all of them but about 80 or 90 percent of them, so that they could cover with their present organization just about what is being covered now and therefore their overhead would be very much less and the cost to the Government would be probably proportionately less.

Senator BAILEY. Now let us take all the four lines in appendix C, there seems to be a total loss for the fiscal year of 1938 of $836,328.

Senator WHITE. That is just operating loss, I think.

Senator BAILEY. You mean that is what you lost after paying the operating expense?

Senator WHITE. I take it that does not figure in it the depreciation of the ships, or any of those charges.

Senator BAILEY. No. Do you think that you could cut down this loss by accepting the bids as they are?

Admiral LAND. Yes, sir.

Senator BAILEY. How much?

Admiral LAND. I believe, allowing for the subsidy, that we would pay to these lines on this bid, that the Government would save per annum about $250,000 over what we are expending now.

Senator BAILEY. Does that include the whole bunch of them here?

Admiral LAND. That is just the 16 under consideration in this bid, because the Sprague American Republics has already been chartered and is no longer in the picture.

Senator BAILEY. Do you expect to save on Sprague?

Admiral LAND. Yes; there is no doubt we are saving on them.

Senator BAILEY. You show a total loss for 1938 of $836,000. How far do you think you can cut that down?

Admiral LAND. Well, our best figures indicate on the three lines under discussion that there will be a net saving to the Government of about $250,000, and an addition thereto there will be a saving in overhead which for the moment is intangible, but it may be increased to $400,000.

Senator BAILEY. Can I draw the inference that this proposed legislation would, according to your opinion, cost us from $250,000 to $400,000?

Senator WHITE. It would save us that much.

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Senator BAILEY. I said the legislation would not save us that much, that this legislation would upset this.

Admiral LAND. The legislation as it stands would upset this. I am not enough of a prophet to be able to tell what the ultimate saving would be.

Senator BAILEY. In the first place, according to the testimony, you have to make larger allowances for wages. That was testified to yesterday. They did not bid because they wanted to sit down with you and get larger allowances. Without the larger allowances you estimate a saving of a quarter of a million dollars, and you think it might be $400,000. I, as an amateur, knowing not enough about it, would draw from that the conclusion that this bid before us, if we do not approve it, would probably cost us somewhere between $250,000 and $400,000. Is that your judgment?

Admiral LAND. As far as I can see, from where I sit today; yes, that is my judgment.

Senator OVERTON. Let me see if I understand. May I interrupt there? You mean that there would be a saving to the United States Government of $250,000 to $400,000 in acecpting this bid as against continuing the present method of operation through these agents?

Admiral LAND. That is correct; yes, sir.

Senator OVERTON. But you cannot anticipate, in case of negotiation such as contemplated by the bill, in case of negotiation what sort of a proposal these private operators may make to the Commission and therefore you cannot tell?

Admiral LAND. I cannot, and I said I could not prophesy, but it is perfectly evident that any negotiation over the present status, the present percentage, the present allowances has got to be upward or else this is not going to be attractive to the lines concerned. They have indicated very definitely in their testimony that they are not satisfied with the proposal sent out by the Maritime Commission and therefore there must be some modification. It looks to me like a one-way valve. The only way you can go up is to go up. In other words, we would have to pay more. Now just what that would be, as compared to the $250,000 a year or $400,000 a year, I cannot tell you, no.

Senator BAILEY. You overlook the fact that we had notice in the testimony they wanted greater allowances, they did not wish to bid because they wished to negotiate, they wanted to get more.

Senator OVERTON. Over what they are getting now.

Senator BAILEY. That is why they did not bid. That was stated yesterday.

Admiral LAND. I think that is a self-evident fact.

Senator BAILEY. Those are all the questions I have got.

Senator OVERTON. I have a copy, sent in by the Maritime Commission, of the bid submitted by the United States Lines Co. Is there any objection to that bid being inserted in the record?

Admiral LAND. Not the slightest. That is a public bid.

Senator OVERTON. Yes. I think it would be a very good idea to insert the bid in the record. It may be put in the appendix.

Has there been inserted in the record the reply made by Mr. Payne's company, and other companies, Mr. Taylor's company, to the invitation for bids? Was that inserted in the record?

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Mr. PAYNE. I inserted mine, Mr. Chairman. I do not know about Mr. Taylor.

Mr. TAYLOR. I would be glad to insert my copy.

Admiral LAND. Here is a complete set of the America France letter and the American Hampton Roads letter, and the letters and bid of the United States Lines. I think this is complete.

(The matter referred to will be found in the appendix.)

Senator OVERTON. Senator Barbour asked me to say he could not be here today, and asked me to propound some questions to Admiral Land, which he has submitted.

Senator GUFFEY. Who?

Senator OVERTON. Senator Barbour. I see no objection in doing so. The first one is: Please give us more information on the countervailing subsidy to which you referred yesterday. I think you covered that in your statement.

Admiral LAND. I certainly would like some advice from some of you gentlemen as to how this should be treated here. This is not the proper place to get it, but I wish you would think about it, because it is a problem that has seriously and deeply troubled us.

Senator GUFFEY. The countervailing subsidy?

Admiral LAND. The countervailing subsidy, this idea of matching dollar for dollar what one country does for another company.

Senator WHITE. And if you do not you are dropped out of the game?

Admiral LAND. In some cases that is pretty clearly correct, Senator.

Senator BAILEY. Suppose you make a formal report to us and lay all the facts before us for some proper action. We cannot take that up now.

Admiral LAND. It is not a question of action, Senator Bailey, because the action is on the statute books. It is a question of advice. I will bother you for that at some other time.

Senator BAILEY. We might give you some advice.

Admiral LAND. I think I have answered that as fully as I can.

Senator OVERTON. The next question: Is there any countervailing subsidy included in the subsidy for the America France Line announced on this call for bids?

Admiral LAND. No, sir; there are no countervailing subsidies allowed to any line at the present time by the Maritime Commission.

Senator OVERTON. I think you answered the third question, which is as follows: Has the Maritime Commission decided to grant no countervailing subsidy to the operator of the America France Line? Is that definitely known now? I understood you to say that no decision has been reached.

Admiral LAND. No decision has been made. We were stymied.

Senator OVERTON. The next question is: Have you held any hearings upon the subject?

Admiral LAND. Not with the America France Line; no, sir.

Senator OVERTON. With some other line?

Admiral LAND. We had the hearings on the Matson Line last summer, and it is so controversial, it is so difficult, and requires, as I say, five votes plus the Secretary of State, that we have just done nothing except talk to date, and we have done a lot of that.

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Senator OVERTON. Now has the Maritime Commission decided upon a countervailing subsidy under section 604 of the Merchant Marine Act of 1936 for any American steamship line?

Admiral LAND. I did not catch the first part.

Senator OVERTON. Has the Maritime Commission decided upon a countervailing subsidy under section 604?

Admiral LAND. No, sir.

Senator OVERTON. Is the subsidy now paid to the United States Lines based upon German or French operating costs?

Admiral LAND. It is based on the weighted differential, depending entirely upon the competitors that they have and the lines that they run, following the standard procedure of the Commission which emanates from the Research Division, which probably has the oldest inhabitants down there in that division, and on that basis we weight these differentials against the competitors and arrive at a percentage which is finally approved by the board. So I will say I cannot give you a detailed answer there. All I can say is wherever the competition is it is weighted.

Senator OVERTON. Are not German costs lower than French costs and therefore require a higher subsidy rate?

Admiral LAND. I would answer that in the affirmative, to the best of my knowledge. They may have competition with both, but it is a weighted differential.

Senator OVERTON. Does not the higher subsidy rate paid under the German costs to the United States Lines result in a preference to the United States Lines over any other bidder on the America France Line alone?

Admiral LAND. I do not see how there is any preference there, because the percentages are in the advertisement. It is open to the world.

Senator WHITE. Substitute the word "advantage" for "preference." Is not the meaning of that question just this, that the subsidy granted the United States Lines boats, which run up into the German area, is based on the German cost in part, while the subsidies granted to the vessels running to the French ports are based on a higher French cost so they would be lower?

Admiral LAND. That would be true, but the subsidy is based on where the boats run.

Senator OVERTON. Yes.

Admiral LAND. So there is no advantage.

Senator WHITE. I do not think the word "preference" is the right word there.

Senator OVERTON. The United States Lines get the larger subsidy on the vessels that would go to the German ports as against the America France Lines' vessels that go to the French ports, because the costs are lower, the German costs are lower than the French costs?

Admiral LAND. That is right. If they go to both, the thing is weighted, according to the best judgment that we can find.

Mr. WILCOX. There is one point that ought to be put in there, that is it is based on not only where the ships go, but it is based on the competition which those ships have in addition to where the ships go.

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Admiral LAND. That is right.

Senator OVERTON. Was the United States Lines acquired by the International Mercantile Marine as the result of public competitive bidding after the Chapman Co. had failed?

Admiral LAND. I am unable to answer that question. I can find out and put it in the record. Can you answer that?

Mr. WILCOX. No; but we can get the answer to that.

Admiral LAND. That antedates my time by a good many years.

Senator OVERTON. We will pass that. What percentage of cargo does the United States Lines carry in its German trade?

Admiral LAND. What percentage of cargo?

Senator OVERTON. What percentage of cargo does the United States Lines carry in its German trade? I assume that means what percentage of the German cargo as against cargo to other ports.

Admiral LAND. I will have to furnish that from our files in the Commission.

Senator OVERTON. That information may be supplied later.

Admiral LAND. Yes, sir.

Senator OVERTON. What percentage of passengers does it carry in the European trade? Does the United States Lines carry passengers?

Admiral LAND. Yes, sir.

Senator OVERTON. What percentage does it carry in the European trade?

Admiral LAND. We can furnish that with a reasonable degree of accuracy. I do not carry it in my head. I saw the figures just the other day, but I do not remember what they were.

Senator WHITE. Is the inquiry directed to the percentage of passengers that are carried on American ships, or does it mean the percentage of capacity of the particular ship?

Admiral LAND. I do not know.

Senator WHITE. You can answer it both ways. I mean in the material you furnish you can tell us whether these ships are going out with 50 or 75 or 90 percent capacity.

Admiral LAND. Oh, yes.

Senator WHITE. And you can also indicate what percentage that total of passengers was to the passengers moving in that trade?

Admiral LAND. Yes, sir; I understand.

Senator OVERTON. What did Paul Chapman and associates agree to pay when they acquired the United States Lines in 1929?

Admiral LAND. I do not know. I can furnish that.

Senator OVERTON. On what basis was the United States Lines turned over to the International Mercantile Marine in 1932?

Admiral LAND. All of this is so far ahead of my time here that I haven't any accurate data on the subject, and I would not answer it without having accurate data.

Senator GUFFEY. You will find it all in the Black Committee report.

Senator OVERTON. What is the present amount now owed to the United States Government by the United States Lines?

Admiral LAND. I can get that from the books. That is one of the things I would not, if I could, and I could not if I would, carry around in my head.

Senator BAILEY. You can supply this?

Admiral LAND. Absolutely. I think I can give you the answer to all of those questions.

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Senator OVERTON. I will give you the memorandum.

Admiral LAND. I would be much obliged if you would.

Senator OVERTON. Did not the Cosmopolitan Shipping Co. bid in 1937 more than twice the bid now offered for the America France Line by the United States Lines?

Admiral LAND. I would not be able to answer that question. All I know is there were anywhere from 10 to 14 strings to the bid in 1937. I would be very glad to furnish the actual data submitted by the America France Line in 1937. That is available.

Senator OVERTON. Were there any other bids for the America France Line at that time, in 1937?

Admiral LAND. I think not. I think there was only one bid. I am not sure, but I think that is correct.

Senator OVERTON. Are there any further questions to ask of the Admiral? Do you wish to ask him any questions, Senator Bailey, in executive session?

Senator BAILEY. Yes; I want to talk to him.

Senator OVERTON. Now, before that is done, Mr. Gray asked me if he could be permitted to make a very brief statement, and if there is no objection on the part of the committee, we will hear from Mr. Gray.

STATEMENT OF HORACE M. GRAY, ATTORNEY, COSMOPOLITAN SHIPPING CO.

Senator OVERTON. Mr. Gray, will you give your initials to the reporter?

Mr. GRAY. Horace M. Gray, 42 Broadway, New York; counsel for the Cosmopolitan Shipping Co., Inc.

There are two or three subjects which I do not think have been clarified completely for the benefit of this committee, which I would like to clarify. Senator Guffer yesterday asked Admiral Land a question upon section 706 of the proposed amendment, and I think the Admiral was mistaken in his reply. As I recollect it, Senator Guffey asked if section 706 as now proposed to be amended would not eliminate all ships of the United States from bidding, and I should like to point out to the committee what the facts are. I think Admiral Land stated that in his opinion it did, but if the committee will refer to the second page of the bill, S. 1516——

Senator GUFFEY (interposing). How did you state my question? I have got what I said right here. I asked Admiral Land this question: Do you agree with me that, as so written—that in this section 706 you refer to—all the provisions as to competitive bidding for charters are rendered useless and of no meaning?

Mr. GRAY. That is my understanding of the question, sir.

Senator GUFFEY. That is right.

Mr. GRAY. If the committee will refer to page 2 of bill S. 1516, lines 1 to 5, in which it is stated:

> In the case of any line being operated by the Commission on February 1, 1939, preference in the operation, sale, or charter thereof shall be given to the agent operating such line for the account of the Commission on such date.

It limits the ships which would be subject to the provisions of this act to those which are now in operation, and the Maritime Commission would have it within its power to withhold all of its new tonnage

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from operation by any of the present agents and would, therefore, eliminate them from the provisions of section 704, and would, therefore, make all the provisions of section 706 as to competitive bidding strictly legal and required.

Now, there is another important subject which has been referred to both by Senator Bailey and Senator Guffey with respect to the policy. I do not think, and it is not the intention of the Cosmopolitan Shipping Co., Inc., to ask for any preference in respect of these bids other than a preference which applies as a matter of law. We are really asking here for equality of bids, and this proposed bill, in my opinion, and also in the opinion of the House Committee on Merchant Marine and Fisheries, does not change the fundamental governmental policy of competitive bidding when we come to analyze the situation.

On page 7 of the report of the House committee, report No. 71, on the O'Leary bill, it stated as follows:

> The proposed bill raises no fundamental question as to the changing of the principle and policy of the Government in respect to the disposition of public property by competitive bidding in favor of the present agents of the Government who are now operating the lines. There is nothing in the proposed bill that gives the operators any advantage or preference that does not exist under the present law, and in fact, has existed for many years. There is nothing that compels the Commission to accept terms by negotiation that are not in the interest of the Government, and your committee believes that the same Commission which has rendered valuable service in protecting the Government's interests in the matters outlined above involving many millions of dollars may render as eminent service in solving these problems.

Now, the question of equality, which has been alluded to by Senator Bailey——

Senator BAILEY (interposing). Before you get away from that, I would like to ask you a question.

Mr. GRAY. Yes, sir.

Senator BAILEY. Do you represent a company that had an opportunity to bid here?

Mr. GRAY. Yes, sir.

Senator BAILEY. Did you bid?

Mr. GRAY. No, sir.

Senator BAILEY. You did not bid because you did not wish to go into competitive bidding?

Mr. GRAY. No, sir.

Senator BAILEY. Why did not you bid?

Mr. GRAY. We did not bid because we could not tell what we were bidding on, and no one else could tell what they were bidding on under the proposal for bids, and that is the reason why we think this proposed legislation will cure the defect which now exists and make bidding on these lines really accurate.

Senator BAILEY. Would not the cure for that be the specifications in the advertisement for bids?

Mr. GRAY. Certainly.

Senator BAILEY. That is not the remedy proposed here. The remedy proposed here is private negotiation, is not that right?

Mr. GRAY. Yes, sir; private negotiations before bids rather than private negotiations with a successful bidder after the bid has been awarded.

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Senator BAILEY. In what respect were the advertisements for bids so indefinite that you could not make the bid? Others bid, at least one of them bid.

Mr. GRAY. Yes. In one respect, the bid was indefinite.

Senator GUFFEY. The specifications, you mean?

Mr. GRAY. The specifications; yes, sir.

Senator GUFFEY. The advertisement.

Mr. GRAY. Yes, sir.

Senator GUFFEY. Let me ask you this question: When you got the advertisement did you, or anybody from your company, take up with the Merchant Marine Commission, the Maritime Commission, the question of clarifying the advertisement, did you ask them to make any changes in their advertisement?

Mr. GRAY. You mean negotiate with them?

Senator GUFFEY. I mean when you got the advertisement, before or after you got it?

Mr. GRAY. No; we did not.

Senator BAILEY. You did not notify them you refused to bid because their advertisement was indefinite?

Mr. GRAY. Yes, sir; we did.

Senator BAILEY. You did notify them?

Mr. GRAY. Yes; our letter is in the record so notifying them.

Senator BAILEY. What was their answer?

Mr. GRAY. There was no answer. They went ahead and opened the bids; that is, opened the single bid.

Senator BAILEY. You wrote the letter on the 17th?

Mr. GRAY. Yes, sir.

Senator BAILEY. You wrote just 3 days before the bids were opened?

Mr. GRAY. Yes.

Senator GUFFEY. When was the advertisement placed?

Mr. GRAY. The advertisement, Senator, was placed on January 16, 1939, and the O'Leary bill——

Senator GUFFEY (interposing). Wait a minute. The bids were opened on what date?

Mr. GRAY. February 20, 1939.

Senator BAILEY. You waited until the 17th of February?

Mr. GRAY. Yes, sir; but let me explain that. The invitations for bids were advertised on January 16, 1939. The O'Leary bill was presented on January 12, 1939, 4 days before. In the proposed invitations for bids there was a statement that an addendum which would give the amount of subsidy which would be allowed for each on the lines would be provided on January 24. That is nearly 2 weeks after the original advertisement. Now, as a matter of fact, this addendum giving the subsidy was not available. It was dated on February 3, 1939, and was not received by us until February 6, 1939, and then on February 18, 1939, less than 48 hours before the opening of bids, we received this telegram from the Maritime Commission, signed by Admiral Land:

Clause 13 designated maintenance of pro forma agreement issued pursuant to proposal P&S 270 covering sale or charter of vessels for operation America France Line, Oriole Line, and American Hampton Roads Yankee Line will be changed in charter party agreement so as to provide that expense of general

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reconditioning or replacement of gears of turbine vessels specifically named in charter to be not covered by insurance policies required to be carried on the vessels shall be for the account of owner.

Now, less than 48 hours before the bids were opened this was a very material change in the form of contract, because if any turbine gears are to be replaced it runs into large sums, easily $25,000, and this was the change which was really made at the time we were writing our letter stating that we could not even bid on the situation as it then existed.

Senator GUFFEY. When did you discover that you could not bid on the specifications? It was not until the 17th, was it?

Mr. GRAY. No, sir; it was pretty close to the 17th, because you can read those specifications over and over again and find something new that is lacking in them. You, Senator, as a lawyer, can appreciate that.

Senator GUFFEY. I am not a lawyer.

Senator OVERTON. You referred to the report of the House Committee——

Mr. GRAY. Yes, sir.

Senator OVERTON. In which they make the statement that there is no preference not already afforded by law that is contemplated by this bill.

Mr. GRAY. Yes, sir.

Senator OVERTON. I think there is, however, a preference, and one is a preference in favor of the present operator in negotiations with the Commission. The bill specifically declares that the Commission shall negotiate with the present agents.

Mr. GRAY. Yes, sir.

Senator OVERTON. It makes it mandatory.

Mr. GRAY. Yes, sir.

Senator OVERTON. And it gives them discretionary authority to negotiate with other persons.

Mr. GRAY. Yes, sir.

Senator OVERTON. Then it proceeds to say this, and I want to call your attention to this, after providing for negotiations with the present agents and discretionary authority to negotiate with other persons:

The Commission, pursuant to such negotiations, may enter into an agreement or agreements for such sale or charter upon such terms and conditions as will give preference to the operator who was operating such line on February 1, 1939, insofar as it may be possible to do so, consistent with the purposes and policy of this act and with carrying into effect the requirements of said section 809 of this act.

Mr. GRAY. Yes, sir.

Senator OVERTON. It vests authority in the Commission to enter into a contract only with the present agents, it does not vest authority in the Commission to enter into an agreement with any other person. I would like your comment on that.

Mr. GRAY. My comment on that is this: The act, on page 2, line 5, says: "Before advertising any such line for sale or charter." That does not say that there shall be no sale or charter.

Senator OVERTON. I understand that.

Mr. GRAY. It does not say that there shall be an agreement or a contract with the agent, but it works out this way: The agent knows

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more about the line than perhaps anyone except those in the Maritime Commission. As a matter of plain business sense the Maritime Commission has at its disposal the knowledge and the experience of the managing agent in the operation of that line.

Senator OVERTON. I think we have that information. Pardon me for interrupting you. That has been testified to, but that is not the point I make.

Mr. GRAY. I am coming to the point now.

Senator OVERTON. The point I am making is this: If this bill is enacted into law here is a mandatory provision that the Commission shall negotiate with the present agents and may negotiate with others.

Mr. GRAY. Yes.

Senator OVERTON. For private sale or charter.

Mr. GRAY. Yes.

Senator OVERTON. Now when they have completed the negotiations there is authority vested in the Commission, pursuant to the provisions of this bill, to enter into an agreement only with the private operators, and no authority to enter into an agreement with anybody else.

Mr. GRAY. It is not mandatory.

Senator OVERTON. It is not mandatory; no. They may not enter into any private agreement, they may advertise for sale, but, if they do enter into a private agreement, they must enter into a private agreement only with the present operators and not with anyone else.

Mr. GRAY. I do not agree with you there.

Senator OVERTON. Will you read line 12 down to the proviso in line 19?

Mr. GRAY (reading).

The Commission, pursuant to certain negotiation, may enter into an agreement or agreements for such sale or charter upon such terms and conditions as will give preference to the operator who was operating such line on February 1, 1939, insofar as it may be possible to do so consistent with the purposes and policy of the act and with carrying into effect the requirements of said section 809 of this act.

Now that, in its practical application, gives the Maritime Commission a chance to negotiate with the person and the organization best qualified to treat upon the subject and ascertain from them what they would be willing to give for the line.

Senator OVERTON. Yes; and only to them.

Mr. GRAY. No, sir.

Senator OVERTON. And enter into a contract only with them. It can negotiate with others——

Mr. GRAY (interposing). If you will please let me finish, I think I can clear it up.

Senator OVERTON. All right.

Mr. GRAY. It gives them the opportunity to negotiate with the operator who knows all about the line and find out from him under what conditions he would accept that line; that is, what he would be willing to bid for it. They need not necessarily arrive at a bid price, then. In order to check on this operator they may also negotiate with any other person that may be interested in getting this line, and you then have a check on the operator, a check on their own records, and a check on the market. You will then have a definite proposal—definite in every respect. There is a duty placed upon the Maritime

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Commission to report any such contract made under negotiations to Congress. If the Maritime Commission then feel the contract which the operator is ready to enter into is an advantageous one, they may go ahead and enter into it and report to Congress, but if they find that there are several persons interested in the acquisition of that line, they then have a composite offer; that is, the best offer that can be made by both, taking out the element of one and adding them to the other, so that you will then have a complete entity with at least two people interested in bidding on it. Then you have got something that you can put for public bid, and everyone has an equal chance.

Now then, when you come into the question of preference, as I understand it, there has already been an opinion rendered by the general counsel of the Maritime Commission that in his opinion preference grants to the operator the right to take over the line at the price that anyone else will pay for it.

Senator OVERTON. Now, Mr. Gray, I understand all that. Let us forget all the negotiations. It provides for negotiations not only with the present agents but with others that may be interested. Now the negotiations are all over.

Mr. GRAY. Yes, sir.

Senaor OVERTON. The Commission is to act.

Mr. GRAY. Yes.

Senator OVERTON. When it proceeds to act under the provisions of this bill, it can enter into a private contract only with the present operators and not with others with whom it may have negotiated.

Mr. GRAY. I do not think so. The act does not limit it to private operators.

Senator OVERTON. The bill contemplates it may not enter into any private contract at all and may offer it for charter or sale under competitive bidding, but if it enters into a private contract it could enter into a private contract only with the present operator.

Mr. GRAY. No, sir; Mr. Chairman, I do not agree with you. It says, "May enter into an agreement or agreements for such sale," not with whom.

Senator WHITE. It says, "enter into an agreement or agreements for such sale or charter upon such terms and conditions as will give preference to the operator." Now, is not that restrictive?

Senator OVERTON. You cannot give the preference to the operator in the agreement unless you have a contract with the operator, at least not very well.

Mr. GRAY. I do not see why not. The preference may be given to the operator, but if the operator does not take advantage of the preference then the operator has not got it, but the operator will have had the opportunity to meet the best bid. If he does not take it, he hasn't got the preference.

Our position is that this act really puts vitality into it and carries the policy which both Senators Bailey and Guffey have been discussing right into this proposition, so that when you put your American line on the block everybody knows right down to the last possible calculation just what they have to meet, and they have total equality in bidding with everyone else in the United States.

Then we must remember, too, that the policy of the Congress, as

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announced in this merchant-marine legislation, is a policy of preference, but it is a preference which really operates to the benefit of the United States, because that preference is intended, I think Senator White will agree with me, in part, as a method of preserving the organization and goodwill which has been operating the line and has been getting results for a number of years past. Now that goodwill goes with the operator. It is being preserved by the Congress under the policy expressed. It is similar in effect to the same policy that involves the civil service. The Government, in its wisdom, has learned that every time you clean out a Government department after election you get in a lot of people who have got to be taught how the department works, and it takes a year or so to do it. You do exactly the same thing if you clean out a shipping organization.

Senator GUFFEY. What do you think the goodwill of your line is worth?

Mr. GRAY. The goodwill on our line is worth so much that when we were left alone without any Government-aided competition, we were able to carry more than 50 percent of the cargo carried between North American ports and France, with the Compagnie Transatlantique as our competitor. That was the final object, specifically set forth in the merchant-marine legislation, that we shall carry more than half of the trade.

Senator GUFFEY. Don't you think goodwill is a variable factor?

Mr. GRAY. Depending upon the individual; yes.

Senator GUFFEY. In regard to most any operator it is a variable factor. I have seen any number of officers in companies turned out and earnings improved, and efficiency improved. We bought out a lot of companies, some of them we improved, and some we found very efficient, but we charged all the goodwill down to a dollar, the whole combination.

Mr. GRAY. That is good finance, but when you look at it from a practical standpoint, the goodwill is there and you cannot get around it.

Senator GUFFEY. I thought we did, in some cases.

Mr. GRAY. Now then, Congress recognized the ability of the Maritime Commission to protect the Government in negotiations, because it has given them the power and the authority to negotiate mail contracts. They granted millions of dollars, and it was done last year. So, as far as Congress is concerned, they have no doubt of the ability of the Maritime Commission to protect public interest. If the Maritime Commission has that ability on the mail contract, it certainly has the ability to do so in the negotiations, particularly when the negotiations do not result in a contract until after a bid has been offered for the definite contract that can be placed before the public.

I am taking a little more time than I anticipated, but I think these are important points.

There are two other items which are important. First is the question of countervailing subsidy. The question of countervailing subsidy is very important in the case of the America France Line.

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The United States Maritime Commission, in its last report, states, at page 19:

> The Commission reserved for decision during 1938 its determination on such matters as subsidy granted by foreign governments; indirect competition; depreciation allowance based on the higher cost of construction in the United States,

and so forth.

So that that is a definite element which would go to make up the value of the America France Line, something for someone to bid upon. See what position the Government would be in. If the line were now turned over to the United States Lines on this bid and 6 months hence the Maritime Commission decided on a formula for fixing a countervailing subsidy and that asset had been lost to the Government in this bidding, it would then fall right into the hands of the present bidder who did not have the real competition which the Government is required to have had for the countervailing subsidy as part of the elements to the bid.

Senator BAILEY. Nobody has that now. That is artificial, that is theoretical. We never have had a countervailing subsidy.

Mr. GRAY. Section 604 of the Merchant Marine Act of 1936, as amended by the Merchant Marine Act of 1938, reads:

> If in case of any particular foreign trade route the Commission shall, by unanimous vote, find, after consultation with the Secretary of State, that the subsidy provided for in this title is in any respect inadequate to offset the effect of governmental aid paid to foreign competitors, it may grant such additional subsidy as it determines to be necessary for that purpose; provided, that no such additional subsidy shall be granted except upon the unanimous affirmative vote of the members of the Commission.

Senator BAILEY. Suppose we pass this act, how would you either bid or negotiate, with the statute giving them authority, authority which has not so far been exercised and which could not be exercised except upon unanimous consent of five men, with the advice of the Secretary of State? That is too indefinite.

Mr. GRAY. That is not it, Senator.

Senator BAILEY. That would not affect your bidding, that would not affect your negotiation. You have got something in the future.

Senator OVERTON. What you contemplate is before proposals are submitted, during the course of the negotiation, that the members of the Commission will unanimously vote on what the countervailing subsidy will be and obtain the approval of the Secretary of State?

Mr. GRAY. Yes, sir. Let us get around the table and find out what it is. The Government is interested in this line, it has an interest in this line. If by stating what the countervailing subsidy is, you can get two or three more bids, that is what the Government is looking for, and what the Congress is looking for, competitive public bids. As it now stands, Senator, this invitation for bids amounts to an invitation to bid for a chance to negotiate. If the United States Lines would get the bid they would have to go right down to the Maritime Commission and start negotiation perhaps for the next 6 months this year, and everyone else in the shipping business wants to get a chance to bid on a contract that the United States Lines would have to negotiate with the Maritime Commission, and here they would have to negotiate before this contract would be reduced to something definite.

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Senator BAILEY. Would not they be bound by the advertisement for bids?

Mr. GRAY. If you will just read this invitation for bids, you will see what I mean.

Senator BAILEY. I do not see why you did not bid, if you thought you could not negotiate afterward. The United States Lines bid and you say they can negotiate. You could bid and negotiate, but you did not do it. Now, why should you ask for that privilege now? You had your day in court.

Mr. GRAY. As a matter of public policy, you should put the horse before the cart. The bid should be definite in every respect so everyone in the country may bid on a definite proposition.

Senator BAILEY. You take the view that before you bid you may sit down with the men and get the cart before the horse. You have got the cart before the horse now under your theory. There is something left out here that the United States Lines would get the benefit of and that you would not have gotten the benefit of if you had bid. I do not follow you. Could not you have negotiated just as you said they did?

Mr. GRAY. Yes, sir.

Senator BAILEY. Could you not? I would like to get that in the record.

Mr. GRAY. Yes; certainly, I imagine we could. We would have had to, because the proposition as offered is not definite. You do not know what you are getting.

Senator BAILEY. You go back to that, that the advertisement was not definite. If that were the case probably you would have had something to stand on. You have not got anything in the world to stand on on the theory that the United States Lines, if this bid is accepted, can negotiate and you could not. Of course, if they could, you could. You did not bid; you decided to seek legislation.

Mr. GRAY. But from the Government standpoint, the negotiation should come before the bid and not afterward, otherwise you are buying a pig in a bag, and we do not know, nobody knows, what the Maritime Commission would insist upon. I think, in order that this record may be complete, the proposed charter agreement, which was also supplied and became a part of the invitation for bids, should be incorporated in the record of this hearing, Mr. Chairman, because that shows how the proposals in the invitation were to be put into effect.

Senator OVERTON. Is not that an exhibit in the House hearings? I think we incorporated the House hearings. I do not think it is necessary to put it in this record. There is no objection to putting it in these hearings, however.

Senator BAILEY. Just so we have it.

Mr. WILCOX. It is in the House hearings.

Senator OVERTON. That is my recollection.

Mr. GRAY. Another very interesting situation arises in connection with the American Pioneer Line. The American Pioneer Line is now owned by the International Mercantile Marine. That has not been offered for bid. Well, it is owned by those interests.

Admiral LAND. It is owned by the Maritime Commission, if I may interrupt.

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Mr. GRAY. The United States Lines?

Admiral LAND. The Pioneer Line is owned by the Maritime Commission.

Mr. GRAY. The admiral is correct. What I mean to say is that the American Pioneer Line is being operated by the International Mercantile Marine as the operating agent. Now, under this invitation for bids we have an option, that is the public, the bidding public, the merchant marine in the United States has the option of bidding for the America France Line, the Oriole Line, and all the other American Hampton Roads-Yankee Line, they can bid for any combination or all. Now, it has developed in the testimony yesterday, I think from Admiral Land, that the American Pioneer Line is almost paying for itself without a subsidy. Now, if that line were also put on the block with these other three lines so that the bidding public should have an opportunity to bid for any combination, with the American Pioneer Line as one of the elements, the Government's interests would be much better served and the bids themselves would indicate to what extent the Government's interests have been served.

Senator BAILEY. Might we have an intimation of how they handle the bidding? You do not presume they would do it in a way that would inure to the disadvantage of the Government, would you?

Mr. GRAY. It is my understanding that the reason it was not bid for at this time, as expressed at the hearings before the House Committee on Merchant Marine and Fisheries, was because there were some negatiations pending with the Matson Line. Is that not right, Admiral? Or there were some negotiations with some other outfit involving some situation with which I am not familiar, which was the reason for not putting them on the block at the same time.

Senator BAILEY. Not being familiar with the circumstances you indulge the presumption that the Maritime Commission was acting intelligently in the interests of the Government?

Mr. GRAY. Of course.

Senator BAILEY. What is wrong with it?

Mr. GRAY. Because, as a matter of public policy and as a matter of giving everyone a chance at a competitive bid for all the public lines—that is, the policy to put several lines on the block at one time—has been inaugurated by the Commission itself, and we must assume it is done in their wisdom. If they put three up there is no reason why four could not go up and give everybody a chance to bid on any combination.

Senator BAILEY. You do not suggest they did not give everybody a chance?

Mr. GRAY. Of course not? I say everyone should have an opportunity to bid for the American Pioneer Line in combination with any other service.

Senator BAILEY. If no one has had a chance to bid for the American Pioneer Line why should anyone complain?

Mr. GRAY. The way to find that out is by trying it.

Senator BAILEY. There would be no discrimination.

Mr. GRAY. There would be no discrimination, perhaps. I am not so sure.

Senator WHITE. But we cannot, by legislation, presume to say that ime Commission shall offer a certain line for sale or charter,

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or what combination it shall offer for sale or charter. That is a matter within their discretion and not in the exercise of our legislative functions.

Mr. GRAY. Then we also have a situation with the America France Line at Havre. If the America France Line did not have this competition which is offered by the United States Lines at the port of Havre alone, its earnings would have been much greater, and a combination of perhaps the America France Line and the Pioneer Line would have had more appeal for other shipping interests, if we are going to follow the policy already indicated in the invitation for bids.

I think, sir, that covers the subject which I wish to speak about, and I thank the committee for its attention.

Senator BAILEY. What company is it that you represent?

Mr. GRAY. The Cosmopolitan Shipping Co., who operates the America France Line. Mr. Payne testified yesterday.

Senator BAILEY. Did you ever own any of these ships?

Mr. GRAY. You mean the Cosmopolitan?

Senator BAILEY. Yes.

Mr. GRAY. No, sir; they have always been owned by the Government. We tried to buy them.

Senator BAILEY. The only thing you ever had from the Government was the right to buy them, was the agent in operating them.

Mr. GRAY. During the war it was operating ships all over the world.

Senator BAILEY. But it never owned these ships.

Mr. GRAY. I do not think so. My impression is that they did not. They have always been Government owned.

Senator BAILEY. But they have always tried to buy?

Mr. GRAY. Yes; to buy and subsidize.

Senator BAILEY. They have always operated by contract with the United States Government?

Mr. GRAY. Yes; back to 1919.

Senator BAILEY. And under the contract the operating expenses are paid by the United States Government?

Mr. GRAY. Yes; that is now the situation.

Senator BAILEY. That is the situation?

Mr. GRAY. Yes, sir.

Senator BAILEY. That is all I want to know. And the overhead is also paid by the United States Government?

Mr. GRAY. Yes, sir; with no profit to the operator.

Senator BAILEY. Under the law they have a preference in bidding, but why is it equitable to entitle them to private negotiation, or the right to upset bids by the statute? What have they ever done? What have they got at stake? Their officers get salaries from the Government, their ships are supported by the Government, ships owned by the Government. Now, they do not do anything except an agency business. Where do you get the idea of equity, or a vested interest that requires anything by way of special favor?

Mr. GRAY. There is an equity in this, Senator, that they gave up their private operation during the war and devoted their organization to the benefit of the United States Government. They assumed at that time that the Government would give them at least as fair treatment as they gave the Government during the war.

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Senator OVERTON. I think you would put your case on firmer ground if instead of basing it on the thought that the operators have a vested interest in equity that it would be more conducive to the interests of the Federal Government and the American tax-paying citizen.

Mr. GRAY. Yes, sir; I am coming to that, sir. One of the reasons is in the matter of fair dealing with an operator to give up all private operation and devote itself exclusively, intelligently, and very competently, as the records of the Maritime Commission will show. You cannot point to a single instance in the past where the interests of the Government have not been completely and fully protected by this operator. As a matter of fair dealing, the Government has recognized it when it puts in this reference to preference.

Senator BAILEY. If you think as a matter of fair dealing we have got to pay you all the operating expenses and overhead, and then when we try to make a contract you come in by statute to the Senate and ask for private negotiations with the view of getting returns at the expense of the Government, I think the railroads might ask for the same thing. The munition plants could ask for the same thing. Of course, all the soldiers could ask for the same thing. Do you think you could sustain that argument? These are not ships that you had during the war, these are ships you never have owned.

Mr. GRAY. No, sir; but our position here, as a matter of public interest, and in furtherance of public policy to have definite bidding and definite competitive bidding, you must have your negotiation first, and that is what this bill permits, a negotiation, so that as the result of negotiation you have a definite entity you can bid for.

Senator BAILEY. I take the view that negotiations for public bids are based upon advertisements. If you are going to have advertisements and private agreements on the side you never would get anywhere with your public bidding. I do not see where you can have any negotiations other than public bids. As a lawyer, if I advertised mortgages, and if I would go around and whisper to you that it is something that is special for you, I understand the court holds me liable to make that good, but it does not hold the landowner. I do not see how you can get your public bidding and private negotiation mixed up without having an infinite lot of trouble.

Mr. GRAY. Taking your own example, Senator, if you advertise a piece of land for sale you advertise it by metes and bounds. If you put in a newspaper that you wanted to sell an acre of land upon your side hill, who is going to bid for it? And that is what this amounts to.

Senator BAILEY. Where is the analogy? You mean because you sell a few ships instead of all of them?

Mr. GRAY. No, sir; because there are so many uncertainties in this invitation for bids that you do not know what you are bidding for.

Senator BAILEY. I think you could just make a demand for bids to be made certain, but you did not make one until 3 days before the time expired. You are a lawyer. I do not think the court would take notice of a last-minute demand. You had 30 days. You would have to give good reasons for delay, and all that, but I do not think any process is held up where you have a delay that comes in at the last minute.

Mr. GRAY. Senator, you forget the situation that the O'Leary bill went in before there was any bid.

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Senator BAILEY. What was the O'Leary bill?

Senator GUFFEY. Was not there an intimation that they were going to advertise these lines prior to the O'Leary bill?

Mr. GRAY. Not that I know of.

Admiral LAND. In December.

Senator BAILEY. I want to know about the O'Leary bill. Was that ever passed?

Senator GUFFEY. That is the counterpart of the bill we are discussing.

Senator BAILEY. This bill here?

Senator GUFFEY. Yes.

Senatorf OVERTON. That was introduced in the House.

Senator BAILEY. A man hasn't got any right to have his policy affected by passing legislation in Congress. I can introduce a million bills in the Senate, and if anyone wants to invest any money I think he does it on his own risk.

Senator OVERTON. There was introduced in the House the O'Leary bill and a companion bill introduced in the Senate, sponsored by Senator Barbour. They were identical. Then the House committee amended the House bill and it is now pending on the House calendar. They reported it with amendments. Now Senator Barbour substituted his original bill with the pending bill that we are now considering. It is phrased identically with the language contained in the O'Leary bill.

Senator BAILEY. I do not think a man can direct his course on a pending bill. If anybody gambles in futures, I think he should be prepared to take a heavy loss.

Mr. GRAY. We are not gambling on any legislation. We feel this bill will stand on its merits, and upon consideration by this committee it will be supported as unanimously as it was supported by the House.

Mr. PAYNE. May I say I did discuss this matter with Admiral Land. I also wrote him. I think the letter was dated the 12th of February. I wrote him especially asking for certain conditions with reference to countervailing subsidies.

Senator OVERTON. Is that letter in the record?

Mr. PAYNE. No, sir; but I can send a copy. I haven't one with me.

Senator OVERTON. You might produce that later and we will make it a part of the Senate hearing.

Mr. PAYNE. I will be delighted to.

Senator OVERTON. I think that will be all, gentlemen.

(Whereupon, at 12:30 p. m., the hearings were closed and the committee went into executive session.)

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APPENDIX

UNITED STATES LINES CO.,
New York, February 20, 1939.

SECRETARY, UNITED STATES MARITIME COMMISSION,
Washington, D. C.

DEAR SIRS: In response to invitation of the United States Maritime Commission for bids, dated January 16, 1939, there is transmitted herewith bid of the United States Lines Co. for charter of vessels for operation under trade names America France Line, Oriole Lines, and American Hampton Roads-Yankee Line, together with certified check of the United States Lines Co. payable to the order of the United States Maritime Commission in the sum of $50,000, as guaranty deposit to insure compliance with the terms of the enclosed bid.

Very truly yours,

(Signed) JOHN M. FRANKLIN,
President.

UNITED STATES LINES CO.

ONE BROADWAY, NEW YORK

BID FOR CHARTER—VESSELS FOR OPERATION UNDER TRADE NAME, AMERICA FRANCE LINE, ORIOLE LINES, AMERICAN HAMPTON ROADS-YANKEE LINE

NEW YORK, N. Y., *February 20, 1939.*

SECRETARY, UNITED STATES MARITIME COMMISSION,
Washington, D. C.

In response to your invitation for bids dated January 16, 1939, information and instructions to bidders, and terms of charter covering the bareboat charter of vessels for operation under the trade names America France Line, Oriole Lines, and American Hampton Roads-Yankee Line, which by this reference is expressly made a part hereof and incorporated herein, the undersigned hereby offers to charter the following-named vessels as indicated by the lump sum amount set opposite each vessel, for operation under the trade name designated for such vessels:

Item 4: The following-named vessels for operation under the trade names America France Line, Oriole Lines, and American Hampton Roads-Yankee Line, in the services, routes, or lines and on the schedules described in paragraphs designated 1 (a), 2 (a), and 3 (a) of the invitation, respectively:

Name of vessel:	*Amount per month*
Artigas	$840.00
Capillo	840.00
Capulin	840.00
City of Flint	841.57
Cold Harbor	841.57
Collamer	841.57
Independence Hall	840.00
Lehigh	840.00
Liberty	1,023.54
McKeesport	1,029.84
Pipestone County	840.00
Quaker City	841.57

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Sarcoxie	$840.00
Satartia	840.00
Schodack	840.00
Vincent	1,029.84

Item 7: The following-named vessels for operation under the trade name Oriole Lines and trade name American Hampton Roads-Yankee Line, in the services, routes, or lines, and on the schedules described in paragraphs designated 2 (a) and 3 (a) of the invitation, respectively:

Name of vessel:	*Amount per month*
Artigas	$1,200.00
Capillo	1,200.00
Capulin	1,200.00
City of Flint	1,202.25
Cold Harbor	1,202.25
Lehigh	1,200.00
Liberty	1,462.20
McKeesport	1,471.20
Quaker City	1,202.25
Sarcoxie	1,200.00
Satartia	1,200.00
Vincent	1,471.20

This bid is submitted on condition that the undersigned, if the successful bidder, be granted an operating-differential subsidy for the operation of America France Line, Oriole Lines, American Hampton Roads-Yankee Line during the term of the charter, with the initial schedule of subsidy items and percentages substantially as heretofore announced by the Commission. The undersigned hereby applies for such subsidy.

In the event the bid is accepted for any of said items, the undersigned agrees that it will execute the appropriate agreements referred to in the invitation and will furnish the security required by the invitation, all within the period stated therein.

Affidavit of citizenship of the undersigned is attached hereto.

[SEAL] UNITED STATES LINES CO.,
(Signed) JOHN M. FRANKLIN, *President.*

Attest:
(Signed) ——— ———,
Secretary.

AFFIDAVIT OF CITIZENSHIP

COUNTY OF NEW YORK,
State of New York, ss.:

I, John M. Franklin, the president of the United States Lines Co. (hereinafter referred to as bidder), being duly sworn do depose and say as follows:

1. That the bidder is a corporation duly organized and existing under and pursuant to the laws of the State of Nevada.

2. That in my capacity as said president, I am thoroughly familiar with the bidder's corporate records and stock books and personally know the officers and directors.

3. That all of the officers and directors of the bidder are citizens of the United States.

4. That title to 100 percent of the stock of the bidder is vested in citizens of the United States free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; that 100 percent of the voting power in the bidder is vested in citizens of the United States; that there is no contract, understanding, or arrangements that more than no percent of the voting power of the bidder may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States, and that the control of the bidder is not conferred upon nor permitted to be exercised by any person who is not a citizen of the United States by any means whatsoever.

(Signed) JOHN M. FRANKLIN.

Sworn and subscribed before me this 17th day of February 1939.

(Signed) GEORGE P. KING,
Notary Public.

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AMERICAN HAMPTON ROADS LINE, ORIOLE LINES, YANKEE LINE,
Norfolk, February 16, 1939.

UNITED STATES MARITIME COMMISSION,
Washington. D. C.

SIRS: In re: Invitation for bids (proposal P. & S.–270) dated January 16, 1939:

We regret being unable to bid in accordance with the specifications of this proposal.

As present operators of Oriole Lines and American Hampton Roads-Yankee Line, and having on previous occasions bid according to specifications for the purchase or charter of those lines, the reasons for our present reluctant decision may be of interest in response to the proposal's invitation for "suggestions for consideration in connection with future proposals in the event an award is not made under any of the terms and conditions outlined in this proposal."

We respectfully submit the following:

1. Oriole Lines and American Hampton Roads-Yankee Line are, in our opinion based upon experience in their operation, one inseparable economic entity and should be regarded as two branches of the same service or operating unit. Our interest is accordingly in both those lines.

2. Current voyage results of both lines, applying the percentages of operating-differential subsidy offered in the proposal, indicate a voyage surplus but not sufficient to make the lines practically self-sustaining, overhead expenses included. This is due in large measure to the fact that American Hampton Roads-Yankee Line has operated the service specified in the proposal only since June 1938, when it was inaugurated under the following conditions: "The cessation of service by the Baltimore Mail Steamship Co., from Chesapeake Bay ports to North Atlantic European ports necessitated rearrangement of the American Hampton Roads-Yankee Line in order to afford shippers adequate facilities pending the replacement of these vessels by new cargo ships with a higher speed" (U. S. Maritime Commission Annual Report 1938).

3. Even with a heavy overdraft on optimism as to future voyage results of the vessels offered under the proposal, we consider that a bid under the specifications is precluded by paragraph 3 (b) of information and instructions to bidders. The option is therein reserved to the Commission to substitute "newly constructed cargo vessels" for those upon which bidding is invited, and such vessels will become available for substitution soon after deliveries commence in April 1939. It is our understanding that these substituted vessels would be subject to the provisions of section 714, act of 1936, requiring payment of charter hire of not less than 5 percent of the full American unsubsidized cost of construction. As such minimum charter hire would be prohibitive under any conceivable conditions, a prudent bidder under proposal P. & S.–270 must contemplate that the charter-party agreement would terminate very soon after it commenced, and that he would thereupon be required to pay liquidated damages in the amount of 12½ percent of the operating-differential subsidy received during the period of operation. Since the full amount of the subsidy is inadequate, according to current voyage results, to make the lines fully self-sustaining, this added contingency substantially weights the hazards of the venture against the bidder and, in our judgment, makes it improvident to bid under the present proposal.

4. Whether as a contingency under the present proposal or as a direct offer under a future proposal, it seems to us unlikely that acceptable bids could be expected for charter of the newly constructed vessels if the minimum charter hire continues to be fixed under the provisions of section 714. Charter hire can only be paid according to the utility value of earning power of vessels in the restricted trade where they are to be employed. This is true whether the vessels be old or new and regardless of their physical value represented by their cost of construction. If the newly constructed vessels are to find employment under private operation, the charter hire can only be determined by what is fair, reasonable, and practicable for their intended employment and not by congressional mandate.

5. Since the amount received by the Commisison for its vessels under charter may depend more upon additional charter hire (sec. 709) than upon basic charter hire determined by competitive bid, and since additional charter hire depends upon such variable factors as cumulative net voyage profits, charterer's overhead expense applicable to the operation, and charterer's capital employed therein, we suggest that the interests of the merchant marine could best be promoted in respect to the disposition of the Commission's lines through nego-

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tiation with the present operators of said lines, rather than through competitive bidding on basic charter hire alone. We are anxious to participate in such negotiations for disposition of Oriole Lines and American Hampton Roads-Yankee Line whenever the Commission is perpared to do so.

6. In the ultimate disposition of Oriole Lines and American Hampton Roads-Yankee Line we claim preference under the provisions of section 7, act of 1920, and section 809, act of 1936, as citizens of the United States having the support, financial and otherwise, of the domestic communities primarily interested in said lines, undertaking to satisfy the Commisison as to our ability to maintain the service; also preference under the provisions of section 704, act of 1936, as the present operators of said lines.

Respectfully submitted.

Yours very truly,

SOUTHGATE NELSON CORPORATION,
W. B. TAYLOR, *President.*

AMERICA FRANCE LINE,
COSMOPOLITAN SHIPPING CO., INC., MANAGING AGENCY,
42 Broadway, New York, February 17, 1939.

UNITED STATES MARITIME COMMISSION,
Washington, D. C.

DEAR SIRS: We duly received your invitation, dated January 16, 1939, for sealed bids for the purchase of the trade name and goodwill of the America France Line, the Oriole Line, and the American Hampton Roads-Yankee Line, and/or for the charter (bareboart basis) of such vessels for such operation in the lines.

We also acknowledge receipt on February 6 of the addendum to such invitation referred to in the note at the top of page 5 of the invitation.

Under the terms of the invitation, the form of bid is unalterable according to the following language taken from paragraph 5, page 5, of the invitation, as follows:

"The Commission will not receive, either directly or indirectly, from bidders or from any persons acting for them, any communication, plan, or explanation, either oral or in writing, tending to explain or modify their bids in any way whatever, unless such communication, plan, or explanation is called for by the Commission."

Under such terms and in view of several conditions contained in the invitation, we regret exceedingly that after mature thought we have reluctantly reached the conclusion that it would be impracticable to submit a bid either for the purchase or charter of any of the vessels or lines requested, and beg to set forth some of our reasons for being forced to reach this conclusion.

Without multiplying examples, we respectfully call your attention to some of the provisions in the invitation which have had a strong influence upon us.

Paragraph 3 (a), page 4: Substitution of vessels by the operator. There is no limitation upon the terms and conditions that the Commission may impose or approve for the substitution of other cargo vessels to be used in a line, nor is there any definition of the required service which might be satisfactory to the Commission.

Paragraph 3 (b), page 4: Substitution of vessels by the Commission. The Commission may substitute "presently existing or newly constructed cargo vessels" and all the provisions of the charter would be subject to provisions of law "then in effect" without any limitation or qualification as to the scope or application of such laws.

This paragraph also provides for an adjustment of basic charter hire subject to such future laws and within the discretion of the Commission. The operation of such a provision, it seems, would be such that a bidder would, in effect, obligate himself to perform a contract, the ultimate terms of which are now unknown.

The minimum charter hire of such new vessels, as fixed by section 714 of the Merchant Marine Act, 1936, at 5 percent of the actual construction cost of such vessels is now prohibitive.

Under the provisions of this paragraph a successful bidder, if he could not agree with judgment of the Commission, might forfeit all his rights and, in addition, would be required to pay as liquidated damages 12½ percent of the aggregate amount of any differential subsidy paid him under his charter.

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Paragraph 4 (a) page 4:

Operating differential subsidy.—A bidder should base his bid upon some fixed subsidy rate for the life of the contract. This paragraph provides that the subsidy may be modified during the term of the contract whenever deemed necessary or advisable by individuals or authorities unnamed but whose discretion seems unlimited.

Similar difficulties confront us in a number of the succeeding terms of the invitation, but the few above set forth are some of the more important reasons that have compelled us to take the decision we have reached.

It is unnecessary at this time to detail the length of time this company has been operating the America France Line, for these facts are well known to you, but, suffice it to say, our company established the original French service of America steamers in 1918 and has been continuously operating your ships, exclusively, in that service and other trades for the last 18 years.

It has been our policy and objective at all times, and still is, to cooperate with the Government in the management and disposal to private operation of the America France Line, and we have on every occasion, when opportunity to bid has been offered, submitted our bids either for the charter or purchase of the line under conditions which we felt, due to our long and thorough knowledge of the trade, then represented a fair business risk. In this respect we beg to refer to our letter of June 14, 1937, transmitting our latest bid. Many of the problems there outlined still confront us in our consideration of the present call for bids, and we believe they can best be disposed of in the manner contemplated in the two bills referred to below.

Accordingly, we are supporting the O'Leary bill (H. R. 2382) and the Barbour bill (S. 656) now before the committees of both the Houses, which, if enacted into law, would empower you, and would give us the opportunity, to discuss and analyze all factors and circumstances which should be taken into account in arriving at the objectives that we both desire, namely, a workable operating arrangement which is fair both to the Government and to the private operator, and which would assure the continuance of this essential service into the future in accordance with your long-range policy. An important purpose of the bills above-mentioned is to permit just such negotiations to arrive at a working agreement that would secure that result.

We understand Congress has always desired, as long as the public interest is fully protected, that the operators who have devoted their careers to the development of such American lines, to service these trade routes, be granted a preference in the acquisition of such lines for private operation, particularly when the reputation of the operator arising out of his long dealings with the Government assures his complete reliability.

A condition which has been uppermost in our minds since 1932 lies in the possibility that you will decide to eliminate competition between two overlapping private operators, both subsidized by the Government, which results in no definite benefit to the public, but is destructive to both lines, and we hope that before final disposition of the America France Line to private interests such an anomaly will not be permitted to exist.

In line with the request for suggestions for consideration in connection with future proposals, and dealing only with the America France Line, we believe that a return to the 10-day sailing schedule from New York would make the charter of the line much more attractive and would more adequately meet the requirements of the trade at the present time by giving a better service from all North Atlantic ports in our range.

Again, a most determining factor is the uncertainty as to the amount of subsidy that will be ultimately allowed under the present invitation, for we know that the percentages stipulated in your addendum of February 3 in the case of the America France Line, in view of your present interpretation of the act, would be inadequate unless a countervailing subsidy is provided for the American private operator of the line to meet the similar subsidy paid by the French Government itself to our only foreign-flag competitor, the Compagnie Generale Trans-Atlantique, for the purpose of meeting the lower operating costs of its foreign competitors. This subject is outlined in our letter to you of February 11, 1939. The subsidy contemplated under the policy of the Merchant Marine Act, 1936, is clearly intended to counterbalance such foreign-flag advantages.

Because the conditions and terms of the invitation are so fixed and unalterable, and because there are so many factors which must be taken into consideration and provided for, which cannot be incorporated in the designated form of bid and which involve elements that must be defined with certainty so as to

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permit any bidder to formulate a reliable and acceptable bid which would assure the continuance of the line, it is therefore with sincere regret that we are unable to comply with this invitation.

Yours very truly,

COSMOPOLITAN SHIPPING CO., INC.,
INMAN H. PAYNE, *Vice President.*

COPY OF LETTER FROM COSMOPOLITAN SHIPPING CO., INC., AGENTS, 42 BROADWAY, NEW YORK CITY

FEBRUARY 26, 1939.

Hon. JOHN H. OVERTON,
Chairman, Senate Subcommittee on Merchant Marine,
Senate Office Building, Washington, D. C.

SENATE BILL S. 1516

DEAR SENATOR OVERTON: Pursuant to the permission of the subcommittee at the close of the session on last Saturday, I beg to enclose herewith a copy of my letter of February 11, 1939, to Admiral Land, Chairman of the United States Maritime Commission, to which no reply has been received, in confirmation of my talks with him with respect to the necessity for the allowance of a countervailing subsidy authorized by Congress under section 604 of the Merchant Marine Act of 1936, and its incorporation as part of the data under the invitation for bids for the three Government-owned lines then outstanding.

The position in which this company was placed in the call for bids by the Maritime Commission under date of January 16, 1939, is clearly apparent. Prior to February 6 we could not know what subsidy would be allowed, and it was not our object in writing the enclosed letter to obtain more money for ourselves, as was suggested during the hearings, but simply to carry out the intent of Congress so that we could bid upon our line with an adequate subsidy, which would reach a reasonable parity with our foreign competition in the European trade.

Our latest bid of June 14, 1937, which the Maritime Commission is to supply as part of the record, was more than double the present bid of the United States Lines for the America France Line, and was principally conditioned upon the allowance of the necessary and proper countervailing subsidy contemplated by the act. We believe that the total amount so allocated to this line, in its unique situation arising from the direct subsidy given by the French Government to meet high French operating costs, would then be more equal to that granted other private lines in the European trades, and would correct the glaring disparity shown on the addendum to the invitation, dated February 3, 1939.

Under the paragraph in the invitation providing for the substitution by the Commission of new ships now nearing completion, the uncertainty is such that even the lines that were operating under mail contracts have yet to agree to accept such new ships under similar elements of uncertainty, nor has the United States Lines, most of whose ships have also reached the same degree of obsolescence as those of the America France Line, agreed to accept any of these newly constructed ships, as far as any published reports are concerned, which is undoubtedly due to the prohibitive cost and the possibility of change in the law.

References were made as to the possibilities of enhancement of ship values in the event of war. Surely in such an event the Government would appropriate such benefits as partial recoupment for its prior losses and would immediately invoke the provisions of clause 55 of the pro forma charter party accompanying this invitation for bids and already a part of the record.

I also refer to Admiral Land's testimony that the Government would benefit by the savings in overhead if the present bid is accepted. We do not agree with the accuracy of this conclusion, because such overhead savings as were described, in the event of charter by the United States Lines, would accrue to the United States Lines rather than to the Government, and, we believe, would be more than offset by decrease in business, as Mr. Campbell of the firm of its attorneys specifically pointed out in the report of his committee addressed to the President of the United States under date of December 3, 1930, and a part of this record.

During December 1938, in attempting to negotiate for a charter of the America France Line, after we had failed to obtain the line under our last bid, we

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submitted the matter to the Maritime Commission in a letter referred to by the General Counsel in his report, dated January 18, 1939, which appears on page 130 of the Record of Hearings before the House Committee on the O'Leary bill (H. R. 2382), in which he expressed the opinion that such procedure was not authorized by the present act.

We again confirm that our objective in supporting this bill is to secure a definite agreement resulting from negotiation, in accordance with repeated precedent in the disposal of Shipping Board Lines, and we are motivated by the belief that the policy of the Government to sell or charter its property upon definite terms, when directly applied to the peculiar conditions affecting this line, would be thus obtained.

I would greatly appreciate it if this covering letter, together with the enclosures, is made part of the record of the hearings conducted by your committee on this bill.

Respectfully yours,

INMAN H. PAYNE, *Vice President.*

FEBRUARY 11, 1939.

Admiral EMORY S. LAND,
Chairman, United States Maritime Commission, Washington, D. C.

DEAR ADMIRAL LAND: With further reference to the facts discussed during our conference at your office on the 8th instant, I wish to confirm the statements that I made for the consideration of the Maritime Commission.

The enclosed copy of the addendum to be attached to the invitation for bids of the American Hampton Roads-Yankee, Oriole Lines, and the America France Line, shows so great a variance in the amounts to be paid as subsidy to the respective operators over the period of the next 3 years, as provided in the invitation, that we felt it necessary to call to your attention the enclosed letters received from our Paris office, giving the wage scale as well as the detailed subsidies received by the Compagnie Generale Transatlantique.

The America France Line is the only American line from any point in the United States that terminates its service exclusively at French ports and, consequently, is directly competitive with the Compagnie Generale Transatlantique. As the enclosures state, that latter company receives a very substantial subsidy from the French Government, and it would be impossible for the America France Line to compete successfully with that line under today's conditions unless it is granted a proper portion of that amount in addition, so as to put the America France Line on a competitive basis. Obviously the French Government themselves foresaw the necessity of granting extra subsidies to that line because of its higher operating costs in order to place it on a stronger competitive basis with its foreign-flag competitors in the passenger-carrying trade.

The subsidy proposed in the case of each of the lines offered is based upon the lowest operating costs incident to their foreign ports of call. Other American lines concerned have terminal points outside the French Republic and, accordingly, have their subsidies based upon the lowest operating costs prevailing in the competitive services to any of such ports.

I wish to point out again, however, that the subsidy contained in the addendum would more nearly become adequate if the America France Line, in private hands, were to be relieved of the uneconomic cargo competition now existing at Havre by another American line. With the America France Line in private hands, and receiving a Government subsidy, in our opinion it should not be forced to compete with another Government-subsidized line, which itself was established to compete with foreign-flag vessels and cargo carriers in the German trade, particularly when the other private line running into Havre would receive a higher rate of subsidy, based upon the much lower German costs of operation, than the America France Line, also receiving a Government subsidy. Under these circumstances, there will be a preference to another American line against the America France Line and not in favor of the operator of the America France Line as the law requires, according to our interpretation of it.

We therefore trust that these facts will be given due consideration.

Yours very truly,

INMAN H. PAYNE,
Vice President.

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ADDENDUM NO. 1 TO INVITATION FOR SEALED BIDS FOR THE PURCHASE OF CHARTER OF VESSELS FOR OPERATION IN THE AMERICA FRANCE LINE, THE ORIOLE LINES, AND THE AMERICAN HAMPTON ROADS-YANKEE LINES (PROPOSAL P. AND S. 270, DATED JANUARY 16, 1939)

(U. S. Maritime Commission, Washington, February 3, 1939)

The United States Maritime Commission hereby supplements and amends the invitation, dated January 16, 1939, for sealed bids for the purchase or charter of vessels for operation in the America France Line, the Oriole Lines, and the American Hampton Roads-Yankee Line, as follows:

1. By striking out the items in paragraph (b) of clause 4 of "Information and instructions to bidders" and inserting in lieu thereof the following items, together with the percentages of differential set opposite each item for such lines therein designated A, B, and C, respectively:

[NOTE.—America-France Line]

Previous subsidy allowance		America-France Line	Oriole Lines	American Hampton Roads-Yankee Line
Percent				
39	Wages of officers and crew	34.0	43.3	52.2
30	Subsistence of officers and crew	32.6	28.2	45.45
30	Maintenance (meaning expendable equipment and maintenance thereof, stores and supplies, but not fuel oil and lubricants).	22 1	27.0	43.9
40	Repairs not compensated by insurance	20.0	31.14	50.62
None	Protection and indemnity insurance (including premiums and claim payments under deductible average provisions of policies).	33⅓	33⅓	45.567
None	Hull insurance	10.0	25.0	44.95

2. By striking out of item 3 (a) of the invitation the words and figures "fifty-two (52) outward sailings," specified as the number of sailings to be made per year with the vessels for operation in American Hampton Roads-Yankee Line, and inserting in lieu thereof the words and figures "fifty (50) outward sailings."

UNITED STATES MARITIME COMMISSION,
By E. S. LAND, *Chairman.*

AMERICA FRANCE LINE

Subsidy allowance, July 1, 1937, to Oct. 31, 1938, America France Line and American Hampton Roads Line—Percentages compared

	Expense	America France Line		American Hampton Roads Line	
		Percentage	Subsidy	Percentage	Subsidy
Wages	$430,080	34.0	$146,227	52.2	$224,500
Subsistence	79,847	32.6	26,030	45.45	36,290
Maintenance, including stores and equipment	129,212	22.1	28,556	43.9	56,724
Repairs	170,629	20.0	34,126	50.62	86,372
Protection and indemnity insurance, including deductibles	27,360	33⅓	9,120	45.567	12,467
Hull insurance	110,683	10.0	11,068	44.95	49,752
Total			255,127		466,107
Average per voyage, 55 voyages			4,639		8,476
Excess: American Hampton Roads allowance per voyage over American France Line allowance			3,837		
For 26 voyages			99,762		
For 36 voyages			138,132		

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CABLE RECEIVED VIA RCA—FEBRUARY 7, 1939

PARIS.

L. C. PAYNE,
Cosmopolitan Shipping Co., Inc., New York, N. Y.:

20 your 43 no changes since our letters 291 and 338. Increase salaries crew corresponding raise index cost living 9 percent recently submitted arbitration.

FEBRUARY 6, 1939.

LA PORTE,
Cosmopolitan Shipping Co., Inc., Paris:

43 cable today present subsidies French Line and any change wages since last information.

PAYNE.

CONSORTIUM MARITIME FRANCO AMERICAIN,
Paris, July 8, 1938.

No. 338

COSMOPOLITAN SHIPPING CO., INC.,
New York, N. Y.
(Attention: Mr. I. H. Payne, vice president.)

COMPAGNIE GENERALE TRANSATLANTIQUE

DEAR MR. PAYNE: We wish to confirm our cable No. 24 of July 4 reading as follows:

"Ourlet June 14, 291, Trans-Atlantique decree law published Journal Officiel June 30, raising normal subsidy to maximum 200 million francs if previous amount 135 millions does not cover operating losses. * * *"

We are enclosing, herewith, copy of our letter of yesterday, on the same subject, to Mr. J. T. Lykes who, as you know, is now in London.

Yours very truly,

P. LA PORTE, *President.*

CONSORTIUM MARITIME FRANCO AMERICAIN,
Paris, June 14, 1938.

No. 291

COSMOPOLITAN SHIPPING CO., INC.,
New York, N. Y.
(Attention: Mr. I. H. Payne, vice president)

COMPAGNIE GENERALE TRANSATLANTIQUE

DEAR MR. PAYNE: We duly received your cable No. 10 of June 9, reading as follows:

"Please forward earliest possible present amounts aid granted French Line as well as present wages paid French seamen ships comparable ours."

And we confirm our cable of yesterday, No. 11, as follows:

"Your 10 French Line yearly normal subsidy 135,000,000 francs *Normandie* financial charges 91,947,334 francs. Tasso Act extended through December 1940. See our letter May 13, No. 229. Expected subsidy under Tasso Act not to exceed 5,000,000 francs yearly in 1938. Additional subsidy granted under law August 26, 1936, which amounted to 27,977,250 francs in 1936 discontinued after April 1, 1937, owing improvement traffic French Line now requiring reestablishment additional subsidy. Regarding wages French seamen writing."

We wish to refer you to our circular letter of January 12 relative to the prospective sale of a large number of vessels owned by the Compagnie Generale Transatlantique. The various items of the State subsidy granted to the Compagnie Generale Transatlantique in 1936 were summarized on page 3 of this letter as follows:

Normal subsidy	Fr. 135, 000, 000
Additional subsidy	27, 977, 250
Tasso Act subsidy	9, 570, 855
Normandie financial charges	91, 947, 334
Total	264, 495, 439

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The normal subsidy of 135,000,000 francs has not been altered yet in the course of 1938, but considering that the Cie Generale Transatlantique's financial results are very far from being satisfactory for the moment, efforts are being made by the board of directors in order to obtain a substantial increase of this subsidy. It is very likely that this will be accomplished in a near future, either through a decree law or through a bill voted by the Parliament and regularly enacted.

The additional subsidy, which reached in 1936, 27,997,250 francs, was granted by a law of August 26, 1936, as a compensation for the increase in salaries which resulted from the collective agreements enforced in June and July 1936 under the first Blum cabinet. This subsidy was discontinued on March 31, 1937, because the Government considered, at that time, that the improvement in the traffic enabled the French Line, owing to better revenues, to meet these additional expenses.

As the situation of the shipping in France, as abroad, is quite different in 1938 from what it was at the beginning of 1937, this constitutes a strong argument for the French Line to obtain, in the very near future, either the increase of its normal subsidy, as mentioned above, or the reinstatement of an additional subsidy.

Subsidies granted under the Tasso Act (law of July 12, 1934) are in principle granted to independent shipping companies, i. e., not subsidized by the state.

In France there are four state subsidized shipping companies: Cie Generale Transatlantique (United States, Central America, North Africa); Messageries Maritimes (Near East, Far East, Madagascar, Australia); Sud Atlantique (Brazil, River Plate); Compangnie Fraissinet (Corsica).

Although a state-subsidized company, the Cie Generale Transatlantique managed to obtain also the granting of a subsidy under the Tasso Act for its cargo-boat services and thus collected 9,570,855 francs in 1936.

As you are aware, the subsidies paid under this law are obtained through a 4-percent surtax on customs duties. It is expected that in 1938 the proceeds derived from this surtax will be much lower than in 1936. Furthermore, 30 percent of these proceeds are to be obligatorily affected, according to a recent decree law, to operators of fishing vessels.

An official of the Cie Generale Transatlantique told us that, under the present circumstances he did not expect that their subsidy would reach in 1938 a sum sensibly exceeding 4,000,000 francs. It is very difficult to make any accurate statement at the present time; it is why our cable No. 11 of June 13 mentioned "expected subsidy under Tasso Act not to exceed 5,000,000 francs yearly in 1938."

A decree of June 1, 1936, published in the Journal Officiel of June 4, modified the coefficients according to which the grants under the Tasso Act are calculated for the various trades. The coefficient 6 has been selected for the North and South Pacific routes to France.

This coefficient is very high and was fixed in view of assisting more efficiently the Cie Generale Transatlantique's lines to and from the west coast of the Pacific (North and South America).

When the Cie Generale Transatlantique's status is concerned, you should bear in mind that the French State, in its capacity of the largest stockholder, is in fact the owner of the company; consequently, the Cie Generale Transatlantique is guaranteed against any operating losses by treasury funds.

The offer for sale of a large number of ships, at the beginning of the year, serves the purpose of preparing public opinion and Parliament either for a substantial increase of the normal subsidy or for the granting of an additional subsidy. The French shipping press is carrying on its propaganda in that direction.

After having advertised the sale of about 20 ships, the Cie Generale Transatlantique only sold a small number of them, as reported to you already, namely, the steamships *Winnipeg* and *Louisiane* to the newly formed France Navigation Co., the steamships *Ariege* and the *Ardennes* to the SAGA (Societe Anónyme de Gerance et d'Armement, formerly controlled by Jokelson & Co.)

Regarding the present wages paid to French officers and seamen, we would refer you to the pay roll of the oil burner steamship *Agen*, of Messrs. Delmas & Vieljeux, of 7,000 tons deadweight, trading between Antwerp, Dunkirk, Havre, and the west coast of Africa.

The steamship *Agen* is 4,186 tons gross, built in 1921 at Sunderland, length 364 feet, beam 52 feet 9 inches, depth 24 feet 2 inches, powered by triple expansion reciprocating engines.

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The monthly pay roll of this steamer may be analyzed as follows:

	Number	Amount	Total
Master	1	Fr. 3,560	Fr. 3,560
First mate	1	2,700	2,700
Second mate	1	1,695	1,695
Third mate	1	1,250	1,250
Chief engineer	1	3,130	3,130
First assistant	1	2,315	2,315
Second assistant	1	1,850	1,850
Third assistant	1	1,580	1,580
Radio operator	1	1,191	1,191
Able-bodied seaman	9	725	6,525
Ordinary	Say 3	640	1,920
Apprentice	2	375	750
Fireman	3, 3–6	790	4,740
Cook	1	810	810
Baker	1	600	600
Steward	1	750	750
Mess boy	1	285	285
Total	33		35,651

[Note by Mr. I. H. Payne]

Total pay roll as shown	Frs. 35,651
Add: 9 percent (see cable No. 20, Feb. 7)	Frs. 3,209
Add: 90 percent (see p. 5)	Frs. 32,086
Total	Frs. 70,946
At $2.64	$1,873
American ship, monthly pay roll	$4,145
Difference	$2,272
Subsidy necessary to equalize ..... percent	54.8
Subsidy allowed ..... do	34

There are on board nine able-bodied seamen, two apprentices, three firemen, and three specialized workmen paid the same salary as firemen. The three specialized workmen are busy at sea with the upkeep of the auxiliary engines, winches, etc.; while in the ports, they assist engineers in all repairs carried out in the engine room.

The above pay roll would give you a very wrong idea of the cost of labor on board a French ship if you did not take into consideration the obligation for French owners to pay officers and crews 15 days' leave per year and to grant them extra compensation for Sunday work and as a result of the 40-hour-week law.

For instance, an officer of a French vessel is entitled to 15 days' legal holiday, to an additional 30-day leave as compensation for Sunday work, also as a result of the 40-hour-week law, to 54 days paid holiday against 270 days of service at sea. Therefore, an officer who spent 270 days at sea, is entitled to the following:

	Days
Legal holiday	15
Sunday-work compensation	30
As a result of the 40-hour-week law	54
Total days of paid vacation per 369 days (practically per year)	99

The crew have exactly the same advantages as officers, but their Sunday work is not compensated by a 30-day leave; they receive compensation only for Sundays actually spent at sea or on duty in the ports; when they are free on Sundays they are not entitled to any special compensation.

When officers and crew are on leave, they are not only entitled to their full salary, but also to a daily food allowance which amounts to:

	Per day
For seamen	Fr. 17
For boatswains or men of the same rank	20
For officers	28

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The wages of the master and chief engineer (Frs. 3,560 and Frs. 3,130) should be increased by a fixed gratuity of Frs. 750 and Frs. 500 or 600 per month, respectively.

In addition you should take into consideration that seamen, when working more than 8 hours a day, are entitled to an overtime compensation. No overtime is paid to officers.

As a conclusion you should increase the tabulated pay roll of the steamship *Agen*, page 3 of this letter, by 70 to 90 percent in order to get an exact information about wage expenses incurred by French shipowners.

We are in a position to check the pay roll of the steamship *Agen* with the pay roll of the steamship *Calvados*, owned by the Societe Europeenne de Navigation, Paris, a coal burner, 5,350 tons deadweight, 2,993 tons gross trading between the Black Sea and Spanish ports. The steamship *Calvados* is the ex *Eftychia Vergotti*. The pay roll of the steamship *Calvados* may be analyzed as follows:

Master	Fr. 4,400
First mate	3,000
Second mate	2,150
Third mate	2,150
Chief engineer	4,000
First assistant	3,000
Second assistant	2,150
Boatswain	825–40–75
Radio operator	1,850
Able-bodied seaman	725–40–65
Ordinary	640–40–65
Apprentice	640–40–65
Fireman	790–40–65
Cook	825–40–75
Steward	825–40–75
Chief fireman	825–40–75
Trimmer	725–40–65

Additional money is granted on account of the trading conditions of the ship and a special gratuity is granted during the stay of the steamship *Calvados* in Spanish waters. Likewise, officers and crew are covered by a war-risk insurance policy.

Yours very truly,

P. LAPORTE, *President.*

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